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UNIVERSITY OF ALBERTA

Cultural Ecology and Functionalism: Social theory framed by a colonial context.

by

Sheree L. Ronaasen

A thesis submitted to the Faculty of Graduate Studies and Research in partial fulfillment of the requirements for the degree of Master of Arts.

Department of Anthropology

Edmonton, Alberta
Fall 1993

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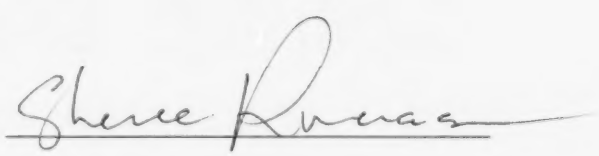

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FACULTY OF GRADUATE STUDIES AND RESEARCH

The undersigned certify that they have read, and recommend to the Faculty of Graduate Studies and Research for acceptance, a thesis entitled **Cultural Ecology and Functionalism: Social theory framed by a colonial political context** submitted by **Sheree Ronaasen** in partial fulfillment of the requirements for the degree of **Master of Arts** in **Anthropology.**

Dr. Michael Asch

Dr. Jean DeBernardi

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Dated: Aug. 30/93

Abstract

It is generally held within contemporary anthropology that functional theory is politically conservative and cultural ecology is politically progressive. However, upon closer examination, the functional theory of human society was constructed to respond to the racism of colonial Europe. Specifically, a social evolutionist model was used to justify, in colonial legal settings such as the Privy Council decision in Southern Rhodesia, that the aboriginal claimants were not socially evolved enough in order to be recognized under English law. In response to this political situation, A.R. Radcliffe-Brown and Bronislaw Malinowski developed a theory that assumed all societies were equally functional and legitimate.

On the other hand, important features of the cultural ecology theory emerged from a racist colonial political situation where American Indians were represented as inferior. To illustrate, at the U.S. Indian Claims Commission proceedings, cultural ecology theory was used to demonstrate that the Shoshonean Indians were not developed to a level of social organization that would make them eligible for possession of original Indian title. Instead, culture ecology alleged on a scientific basis that the Shoshonean Indians were only at a family level of sociocultural integration and that they could not possess rights recognizable in Anglo-American law. Key to this finding, was the development of the concept of a 'family level of sociocultural integration' which first emerged as Julian Steward prepared evidence for the claims cases, and, which later framed his explanation about human evolution and his theoretical anthropology in general. Consequently, this thesis concentrates on a discussion of the political contextualization of theory within anthropology.

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I would like to express my gratitude to the Department of Anthropology for sponsoring my degree, and, to all the people along the way who have encouraged and inspired me to pursue academic studies. To my family, I thank for both moral and financial support, and, especially to my brother Nels for seeing me through the worst. To my friends, I thank for supporting me in the everyday struggles: Raija Warkentin, Andrea Molnar, Brenda Campbell, Sue Morris, Wendy Aasen, Shirleen Smith, Cidalia Duarte, Tony Olmsted, Ping Lai, and Liz Olsen. I would also like to thank those who have become academic role models to me: Ruth Gruhn, Allan Bryan, Margaret Van de Pitte, and Jean DeBernardi. In addition, I thank Steve Greymorning for his help and insight into the particulars of this research. Lastly, a special thanks goes to my advisor Michael Asch. I have come to admire him as a person and without his support I would not have been able to do this thesis.

Table of Contents

Introduction 1

Chapter 1: Theoretical Understanding within Contemporary Anthropology 2

Chapter 2: Functionalism and its Political Context 10

Chapter 3: A Closer Look at Julian Steward's Anthropology 39

Chapter 4: Julian Steward and the Indian Claims Commission 49

Conclusion 83

Bibliography 85

Introduction

This thesis is a discussion and analysis of the political role of two social theories fundamental to the discipline of anthropology: functional theory and cultural ecology theory. Generally, within contemporary anthropology, functionalism is represented as a politically conservative theory. Cultural ecology, on the other hand, is commonly considered to be a politically progressive theory.

However, if we take a closer look at the political context of these two theories a different picture emerges. Functionalism, was actually a theory of human society that was constructed to respond to the racism of colonial Europe. Conversely, cultural ecology theory emerged as a racist view and was propagated during the U.S. Indian Claims Commission proceedings in order to represent American Indians as inferior.

Overall, this area of investigation warrants attention because the political context surrounding the emergence of these two theories is generally not recognized or known in anthropology. I will proceed, in this thesis, by discussing the general understanding of functional and cultural ecology theory within contemporary anthropology. Secondly, I will look at the particular political context in which functionalism emerged and at what the British social anthropologists were trying to accomplish with functional anthropology. Thirdly, I will examine in detail cultural ecological anthropology and what the political circumstances of this approach were. Last, I will provide an analysis of the material discussed with the intention of reaching some general conclusions about the political contextualization of social theory.

Chapter 1

Theoretical Understanding within Contemporary Anthropology

To give some background, functional social theory is based on an analogy with organic life. With this type of model, human society is understood as an organism where all of the parts or institutions work together to form a functioning entity. Consequently, anthropological interpretation concentrates on the present social form and how the interrelationships between institutions function to create a whole.

Especially in recent years, the functional theory of human society has been severely criticized for having a limited scope. For example, functionalism is criticized for its emphasis on the harmonious functioning of society because this ignores the all important elements of conflict in human society. Another major criticism, concerns the confining of the anthropological interpretation to the synchronic present in a way that does not account for the role that history has on human society. As a consequence, the functional perspective does not point to any sort of constructive change.

For example, according to Marvin Harris, an American anthropologist from the cultural materialist school, the primary fault of functionalism is the exclusive use of the synchronic perspective of human society. Specifically, Harris says that this 'serious flaw' resulted in 'a rigid and unprecedented handicap of restricting anthropology to the data collected from a single time level, namely the twentieth

century'.[1] Harris explains, that as a result, the functional interpretation has ignored important aspects of social life. For example, Harris says:

> For something like three hundred and fifty years the "Dark Continent" was utilized as a breeding ground for cheap and docile labor. It is estimated that forty million Africans were caught up in the slave trade in one way or another, although possibly only as few as fourteen million were still alive when they got to their destinations overseas. Advancing before this scourge were shock waves of wars, migrations, political upheavals, and vast demographic changes. In such a context, restriction to an ethnographic present of the 1930's, in the name of empiricism, has little to commend it.[2]

Moreover, Harris suggests, that the emphasis on the harmony and integration characteristic of functional anthropology has ignored the important elements of conflict and social change. For example, Harris says that Bronislaw Malinowski, who along with A.R. Radcliffe-Brown founded of the functional approach, attempted 'to analyze colonialism as if the Europeans and Africans were about to become part of one big happy Kula ring.'[3] By emphasizing harmony and ignoring conflict, Harris explains, that Malinowski could never explain social change. In fact, in referring to Malinowski's principal book on culture change, Harris says, that 'in retrospect it bears a heavy burden of conservatism, if not unreality.'[4] Thus, instead of producing a theory of change, all he succeeded in doing was to enlarge upon a theory of no-change.[5]

Harris adds criticism to functional anthropology for neglecting the material aspects of society. Instead, Harris states that 'they stressed the inner, subjective meaning of experience to the exclusion of the objective effects and relations. They denied historical determinism in general, and above all, they denied the determinism of the

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1 Marvin Harris. *The Rise of Anthropolgical Theory*. 1968, p.524.
2 Ibid. p.536.
3 Ibid. p.561.
4 Ibid. p.556.
5 Ibid. p.560.

material conditions of life'.[6] As a result, Harris says that functionalism has 'exaggerated all the quixotic, irrational, and inscrutable ingredients in human life'.[7]

To elaborate, Harris uses Malinowski to stress the point that the functional interpretation of human society has highlighted the irrelevant and subjective elements of society and has ignored the objective and material elements. In Malinowski's interpretation of the Kula ring, Harris points out, that Malinowski's concentration on the subjective meaning of the exchange of shells overlooks what was really happening in the material and economic dimension. For instance, Harris says that, 'Malinowski treats us instead to a vastly elaborate account of the ritual aspects of the preparations for open-sea expeditions in which the subjective motivations of the actors in terms of prestige and magical aspirations dominate every aspect of the ethnography. We learn only incidentally, never in detail, that the whimsical voyagers circulate not only arm bands and necklaces but coconuts, sago, fish, vegetables, baskets, mats, sword clubs, green stone (formerly essential for tools), mussel shells (for knives), and creepers (essential for lashings).[8]

In general, it is in the area of politics where functionalism has been most severely criticized. For example, Wendy James, a British anthropologist who has studied the functional school extensively, explains that generally within anthropology the colonial context of functionalism 'is represented as fostering an essentially conservative subject, shaped within the same political ideology as colonial domination itself and bolstering its political interests to such an extent that the

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[6] Ibid.
[7] Ibid. p.2.
[8] Ibid. p.563.

perceptions and problems of even the liberal-radical practitioner were falsely formulated'[9]

Talal Asad, an American anthropologist, confirms James's position in a paper entitled 'Two images of Non-European Rule'. Specifically, Asad argues that in order to understand British social anthropology we need to see it as a 'discipline nurtured within bourgeois society' which has always had as its subject dominated peoples. Functional anthropology, following bourgeois interests, presented an image of colonized society that 'stressed consent and legitimacy as important elements in the political systems studied'. The typical description, Asad asserts, 'of local African structures totally ignored the political fact of European coercive power and the African chief's ultimate dependence on it'. Asad concludes by suggesting that since functional anthropology focused:

> ... on a particular image of the African tradition,...helped justify colonial domination at particular moments in the power encounter between the West and the Third World. No doubt, this ideological role was performed by functional anthropology largely unwittingly. But the fact remains that by refusing to discuss the way in which bourgeois Europe had imposed its power and its own conception of the just political order on African ...peoples. [Functional anthropology was] basically reassuring to the colonial ruling classes.[10]

As well, Harris considers functionalism to be a colonial product. The anthropology that Radcliffe-Brown and Malinowski proposed ignored the politics and history of the imposition of the colonial structure. In fact, Harris says that functionalism actually provided 'a scientific rationalization for the status quo, especially in reference to the British policy of indirect rule.'[11] Harris comments:

> The judgment of history lies heavy on those anthropologists who believed themselves free of ethical involvement because they were advocates of the "Native" cause before the tribunals of the European racists while at the same time preaching moderation to the exploited and underprivileged. Were it

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9 Wendy James. 'The Anthropologist as reluctant Imperialist.' 1975. p.41.
10 Talal Asad. 'Two European Images of Non-European Rule.' 1975. p.118.
11 Ibid. p.517.

constructive in this context to plunge into a discussion of ethics, I should raise the question, never entertained by Malinowski, of why the Africans who had been invaded, conquered, enslaved, and exploited owed the Europeans anything else in return. The basic premise of Malinowski's position involved him in the assumption that the Europeans had the right to be governing the Africans and that every future adjustment rightfully demanded that the European interests be given their legal and customary due. Despite the admonitions to the Europeans that they had better be nice to the natives or the natives would go on misbehaving, there is a sanctimonious note in Malinowski's theory which helps to explain why anthropology is still a dirty word among many African nationalists.[12]

As an alternative theory to functionalism, many anthropologists have turned to the culture ecology theory of Julian Steward. From this perspective, human society is regarded as the consequence of a particular environment and the technology used for exploiting that environment. Therefore, the anthropological focus is directed to the objective material aspects of human society in order to achieve an interpretation. It is important to note, however, unlike functionalism, cultural ecology applies a theory of social evolution where cultural complexity is understood in terms of environmental and technological development.

Overall, the culture ecology theory of human society has had a huge impact on American anthropology. For example, Steward's influence can be directly seen in the works, to name only a few, of Marvin Harris, Robert Murphy, Robert Manners, Andrew Vayda, Morton Fried, and Elman Service. In addition, cultural ecology theory is the most commonly applied perspective to hunter and gatherers in anthropological analysis. As well, culture ecology forms the theoretical basis of introductory anthropology courses and American archeology as a whole.

Robert Murphy explains that one of the primary reasons why people were attracted to culture ecology was because Steward's anthropology was considered by his students to be politically progressive. Specifically, in talking about the

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[12] Ibid. p.557.

political climate at the universities during McCarthyism, Murphy explains that 'the 1950's were, chill, narrow, rigid, and fearful years, and this had an inevitable effect upon the discipline of anthropology. To his credit, Steward did not modify his theories under this pressure.'[13] In fact, Murphy concludes that 'in final analysis, Steward was a liberal, and his anthropology was consistent with his politics.'[14]

Steward's social theory, for example, is fundamental to the scientific materialist approach of Marvin Harris. To explain, in Harris's primary work on social theory, 'The Rise of Anthropological Theory', he suggests that the overall priority of anthropology should be for the 'search for the laws of history in the science of man'.[15] Harris recommends, what he calls a cultural materialist perspective for anthropology, which, would ultimately use an objective scientific approach in order to derive a general theory of socio-cultural evolution. This type of theory, Harris infers, was 'already making itself felt in the 1930's,'[16] with Julian Steward's culture ecology. In emphasizing an urgency associated with this rededication of anthropology, Harris says that this is important 'especially to the role anthropologists have been asked to assume in the planning and carrying out of international development programs.'[17]

The particular theoretical model that Harris advocates is one that sees human culture change on evolutionary terms. Harris's major conceptual principle that he uses to develop his theory of human evolution is based on an analogy with the

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13 Robert Murphy. 'Julian Steward.' 1981, p.180.
14 Ibid. p.181.
15 Ibid. p3.
16 Ibid. p.2.
17 Ibid.

'doctrine of natural selection'.[18] In terms of sociocultural phenomena Harris says that this analog translates into a principle of 'techno-environmental and techno-economic determinism'. Theoretically for Harris, this approach to human society would see that 'similar technologies applied to similar environments tend to produce similar arrangements of labor in production and distribution, and that these in turn call forth similar kinds of social groupings, which justify and coordinate their activities by means of similar systems of values and beliefs. Translated into a research strategy, the principle of techno-environmental, techno-economic determinism assigns priority to the study of the material conditions of sociocultural life, much as the principle of natural selection assigns priority to the study of differential reproductive success.[19]

Steward's most significant contribution to anthropology, Harris emphasizes, was methodological. In fact, Harris sees Steward's cultural ecology as a 'subcase' of cultural materialism because '(1) in the cultural-ecological strategy, techno-environmental and techno-economic variables are accorded research priority; (2) this is done in conformity with the hypothesis that social organization and ideology tend to be the dependent variables in any large diachronic sample of sociocultural systems.'[20]

In summary, it is generally held in anthropology that the functional theory of human society is a conservative model that has served to reinforce colonial interests over occupied peoples. As well, in contemporary anthropology, cultural ecology theory is commonly regarded as a better and more progressive theory. I will proceed, in

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[18] Ibid.
[19] Ibid. p.4.
[20] Ibid. p.658.

the next section of this thesis, by looking closely at functional theory and the political circumstances of its emergence.

Chapter 2

Functional Anthropology and its Political Context

When British social anthropology was established as a discipline of knowledge, primary concentration was given to anthropological study in colonial Africa. Most of the early ethnography's, in the 1920's and 1930's, of the first generation social anthropologists, were geographically located in the British colonies in Africa, such works include: C.G. Seligman, Issac Schapera, Audrey Richards, Meyer Fortes, Lucy Mair, Hilda Kuper, E.E. Evans-Pritchard, just to mention a few. This early ethnographic research was largely funded and organized, with the help of Bronislaw Malinowski, at the International Institute of African Languages and Cultures which was set up in 1926. Later, in 1938, the Rhodes-Livingstone Institute was set up in Northern Rhodesia which concentrated on social research in central British Africa. In addition, A.R. Radcliffe-Brown organized the establishment of the first school of social anthropology at the University of Capetown, in South Africa, in 1923. Lastly, both Radcliffe-Brown and Malinowski were heavily involved in teaching courses in social anthropology to colonial officials, especially those stationed in Africa.[21]

The appearance of British social anthropology in Africa coincided with the most socially destructive phase of European colonialism; when, the new colonial governments were setting up their internal infrastructures. The situation, only a few years earlier, was very different because the vast majority of the peoples on the continent of Africa were still independent. The effects of European colonialism was primarily confined to the coastal areas with the exploitation of one particular

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[21] For more information in this area refer to: Adam Kuper. *Anthropology and Anthropologists*. 1983.

resource, that of selling people as commodities for a slave trade. However, the situation for the continent of Africa changed dramatically in the year 1879 when the first European colonial powers, France and Belgium, moved inland to claim territory.[22] The situation that ensued, is what African scholars today refer to as 'the scramble for or the Partition of Africa'.[23]

In commenting on the imposition of the European colonial system, A. Adu Boahen, a renowned African scholar, mentions that this scramble between the European powers for territory was so intense that a special conference was held, in 1884, in order to prevent war. Hosted by Bismarck, the chancellor of Germany, the 'conference was attended by every Western nation except Switzerland and the United States but not even a single African state.'[24] What came out of this conference, was four basic rules which were ratified by the Berlin Act on February 26, 1885. Boahen explains these rules:

> The first was that before any power claimed an area, it should inform the other signatory powers so that any that deemed it necessary could make a counterclaim. The second was that all such claims should be followed by annexation and effective occupation before they could be accepted as valid. Third was that treaties signed with African rulers were to be considered as legitimate titles to sovereignty. The fourth was that each power could extend its coastal possessions inland to some extent and claim spheres of influence.[25]

By 1910, after much bloodshed and brutality, the European 'colonial system had been firmly imposed on virtually the whole of Africa'.[26] By this time as well, the slave trade had been virtually eliminated. The eradication of slavery was the result of several factors which began with the Emancipation Act of 1833 in Britain, which was reinforced with the support of a rapidly growing movement of very vocal

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22 A. Adu Boahen. *African Perspectives on Colonialism*. 1987, p.32.
23 Ibid. p.27.
24 Ibid. p.33.
25 Ibid.
26 Ibid. p.27.

antislavery groups all over the world, and with the fact that British gun boats were finally deployed in the late 1800's in order to the enforce legislation;[27] and, probably because the new economic infrastructure needed laborers. In order to secure this new colonial infrastructure, often what happened was that the European powers would give stipulated concessions or contracts to commercial economic companies.

At about this time, with the establishment of the new colonial infrastructures, the native communities who had signed peace treaties were experiencing violations and were attempting to sue the colonial establishments for breach. In the British colonies, for example, the native groups could appeal when a land dispute arose to the highest court, the Privy Council. The native petitioners were often legally represented, especially in these early years, by the people and organizations that had previously been involved with the stopping the slave trade. The 'British and Foreign Anti-slavery Society', to illustrate, in 1909, changed its name to the 'Anti-Slavery and Aborigines Protection Society', to which I will refer to as the Aborigines Protection Society. Specifically, it was often this society, or chapters of it, that represented the native peoples in the Privy Council cases.

One particular case which really caught the attention of the Aborigines Protection Society was the Privy Council case in Southern Rhodesia. At the time, the Aborigines Protection Society considered it highly significant for establishing precedent in regard to native constitutional rights of ownership for the entire commonwealth.[28] As a result, they devoted a lot of time, money, labor, as well as their lawyers, to preparing a case for the native petitioners in court. It is also

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[27] Howard. Temperley. *British Antislavery 1833-1870.* 1972.

[28] Annual Report. *Anti-Slavery Reporter and Aborigines' Friend.* 1919, p.25-26.

interesting to point out, that this particular Privy Council decision is also the case that was chosen by the Canadian courts to set precedent for native claims.[29]

To give a brief background into the circumstances of the case, the petitioners claim was submitted on 'behalf of the indigenous natives of Southern Rhodesia',[30] who were the two principal tribes, called the Matabele and the Mashonas, who occupied Southern Rhodesia the then territory of British South Africa. The specific area of land where the native claimants lived was a located on a geographically isolated high interior plateau. These two tribes were linked together by one chief, Umsiligas, which was verified in treaty with Britain, in 1836. Another British treaty, in 1888, reaffirmed Umsiligas's son Lo Bengula as ruling chief was signed with the stipulation that he 'refrain from entering into any correspondence or treaty with any Foreign State or Power'.[31]

The autonomy of the Matabele and the Mashonas, however, soon changed as the plateau became bombarded by concession hunters and by many Europeans. After immense pressure, as the Assistant Commissioner stationed at Matabeleland reports: 'there is quite a crowd of Europeans here at present and the chief does not know which way to turn';[32] Lo Bengula eventually granted concession of certain mineral rights for his lands to Mr. Rudd of the British South Africa Company. At this point, the Imperial government in order to 'avoid scandal and disorder to which a scramble for the natural resources of the country would lead unless the white immigrants were placed under effective control, and to secure the aboriginal

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29 Michael Asch. 'Errors in Delgamuukw: An Anthropological Perspective.' 1992, pp.221-243.

30 Case of the Natives. Special Reference: In the matter of the Resolution passed by the Legislative Council of Southern Rhodesia on the 17th day of April 1914 relating to the ownership of unalienated land in Southern Rhodesia. p.1.

31 Ibid. p.2.

32 Privy Council Decision in Southern Rhodesia. A.C. 211. 1919, p.216.

inhabitants in the conditions necessary to their tribal mode of life',[33] incorporated the British South Africa Company by a special Royal charter for 25 years. The charter specified that the Company was, 'to undertake or carry on the government or administration of any territories, districts, or places in Africa, and generally to exercise all rights and powers granted by or exercisable under the charter, and particularly to improve, develop, and cultivate lands included within the territories of the Company, to settle any such territories and lands, and to aid and promote immigration, to grant lands for terms of years or in perpetuity, and either absolutely or by way of mortgage or otherwise.[34]

Three years later, in 1891, Lo Bengula granted another concession, this time to Herr Lippert, a German financier from Johannesburg, for the right 'to lay out, grant, or lease, for such period or periods as he may think fit, farms, townships, building plots, or grazing areas'.[35] After a very short time the British South Africa Company bought the Lippert concession. Ultimately, this concession led to the rapid influx and settlement by many more Europeans in the area. Under the strain of this situation that ensued, Lo Bengula and his people ended up fighting three major battles with the forces of new comers, but, he was eventually driven into hiding by the Company police and with the help of the Crown forces at the Bechuanaland border. In January of 1894 Lo Bengula, it was reported, died of fever or small pox.

With 'the defeat of Lo Bengula and the destruction of his power', as the Colonial Office in South Africa wrote to the Company, in 1893, a new settlement had to be

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[33] Ibid. p.217.
[34] Ibid. p.213.
[35] Ibid. p.218.

reached. After negotiations with Cecil Rhodes, 'who since May 4, 1890, had held the Company's power of attorney in South Africa'[36] an agreement was reached with the High Commissioner. The agreement granted almost all powers of government and administration to the British South Africa Company, including those that were interpreted as property and ownership.

However, in 1914, upon the expiry of the twenty five year charter of the British South Africa Company, dispute for the ownership of these unalienated lands of Southern Rhodesia emerged. Appealed to the Privy Council, there were four claims filed: The British South Africa Company, the Crown, the Legislative Council of Southern Rhodesia which was basically an organization representing the colonists or settlers, and, a surprise entry with the Matabele and the Mashonas people represented by the Aborigines Protection Society. The Aborigines Protection Society, however, was at an extreme disadvantage from the beginning. Any attempts of the principal representative, Sir John Harris, the Organizing Secretary of the Society, to see the native petitioners and collect affidavits was prevented. In fact, during Harris's visit to Southern Rhodesia he 'was "shadowed" by detectives, forbidden to enter reserves, and was eventually sent home'.[37] As a result, the main argument for claim by Mr. Leslie Scott and Mr. Stuart Bevan, Counsel for the Natives, 'was that the 800,000 Matabele and Mashonas people had never been legally dispossessed of their lands, nor had they lost their tribal ownership by any act of their own'.[38]

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36 Ibid. p.223.
37 Robin Palmer. *Land and Racial Domination in Rhodesia*. 1977, p.112.
38 Annual Report. *Anti-Slavery Reporter and Aborigines' Friend*. 1918, p.21.

The final decision of the Privy Council was delayed because of World War 1 until 1919. Specifically, the Privy Council ruled that the British South Africa Company, the Legislative Council of Southern Rhodesia, and the Natives did not have land ownership; instead, the Privy Council ruled that the British Crown owned the disputed lands. The general argument that the Privy Council used to prove that the native claimants could not possess aboriginal title, was based on the assumption that they were not socially evolved enough in order to be recognized within English law. The decision reads as follows:

> The estimation of the rights of aboriginal tribes is always inherently difficult. Some tribes are so low in the scale of social organization that their usages and conceptions of rights and duties are not to be reconciled with the institutions or the legal ideas of civilized society. Such a gulf cannot be bridged. It would be idle to impute to such people some shadow of the rights known to our law and then transmute it into the substance of transferable rights of property as we know them.[39]

This sort of social evolutionist thinking that considers native society as less evolved and inferior, which was used in colonial administration and policy to delegitimize or disregard aboriginal rights, was the major concern of the British social anthropologists. In fact, Malinowski criticizes the logic used in this specific Privy Council decision on two separate occasions in order define and explain the role of anthropology. The first time is, in 1930, in an article called 'The Rationalization of Anthropology and Administration'. This article was written as an elaboration to an article published one year earlier where Malinowski had discussed the practical application and usefulness of social anthropology to the colonial governments. After P.E. Mitchell, a colonial official, responded by saying that anthropological information was completely useless to practical affairs, Malinowski wrote this article. In particular, Malinowski's main concern is that, in general, colonial policy regarding aboriginal rights in Africa has been very

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[39] Privy Council Decision in Southern Rhodesia. A.C. 211. 1919, p.234.

inconsistent. For example, Malinowski questions the decision in Southern Rhodesia that concluded that the native peoples did not have any rights at all. Moreover, Malinowski says it is absurd to suggest that native people are so low on the scale of social organization that they cannot be reconciled within English law. Malinowski comments:

> And again, why is it that the fundamental principles of British policy in Africa have not been laid down in any consistent manner? The decisions of the Judicial committee of the Privy Council regarding the native rights to land are contradictory. In Southern Rhodesia it was held that the natives had really no rights to their land whatever. On the other hand, in Nigeria the Privy Council ruled that the rights in land were vested in the natives. What is more important for the present argument, however, is that the judgment was based on an admission of ignorance, since it was held that 'it was really a matter of conjecture to say what the rights of the original "natives" were'. Their Lordships' decision further stated that:
> 'The estimation of the rights of aboriginal tribes is always inherently difficult. Some tribes are so low in the scale of social organization that their usage's and conceptions of rights and duties are not to be reconciled with the institutions or legal ideas of civilized society. Such a gulf cannot be bridged. It would be idle to impute to such people some shadow of the rights known to our law, and then to transmute it into the substance of transferable rights of property as we know them.'
> Hence the Judicial Committee plainly regard the question of native land tenure as both beyond the scope of practicable inquiry and below the dignity of legal recognition. On the contrary, I maintain that there is no people 'so low in the scale of social organization' but have a perfectly well-defined system of land tenure. It is absurd to say that such a system 'cannot be reconciled with the institutions or the legal ideas of civilized society'. To reconcile the two is precisely the task of Colonial statesmanship.[40]

The second time Malinowski mentions the Privy Council decision in Southern Rhodesia is when he defines the scope and study of primitive law in an introductory piece to a book by his student, H. Ian Hogbin, in 1934 called 'Law and order in Polynesia'.[41] It is precisely this goal of reconciling native law and English law that Malinowski defines as the purpose of the anthropological study of primitive law. Specifically, anthropology must identify those rules that are most essential to the structure of native society in order to bridge the gap between native law and English law. Malinowski says that:

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40 Bronislaw Malinowski. 'The Rationalization of Anthropology and Administration.' 1930, p.414-415.

41 Malinowski. 'Introduction' 1934.

> If anthropology is to develop a practical side which can be of some value to the administrator, it cannot simply tell him that primitive law and civilized law have nothing in common. The anthropologist has to discover the highest common factor. He is able to do this. Those rules, the working of which are essential for the maintenance of such primitive institutions as the family, the village community, forms of organised economic co-operation, chieftainship or religious institutions, are entirely compatible with our rules of law. They are obligatory, they are enforced, they can be taken over by our colonial codes.[42]

Overall, the primary motivating factor behind the development of British social anthropology was based on a humanitarian concern for the condition and future of native peoples. All around the world, native peoples were disappearing and the native way of life was collapsing under the strains of colonialism. For example, this concern is evident in a paper Radcliffe-Brown gave as president to the South African Association for the Advancement of Science, in 1923. Specifically, in asking for the support for the scientific study of social anthropology, Radcliffe-Brown concludes:

> Meanwhile, just as the science is, as it were, coming of age, its subject matter is disappearing with great rapidity. The spread of the white race and the European civilization over the world has produced in a century or two immense changes. Native peoples in many regions have been extinguished, as the Tasmanians, or are approaching extinction, as the Australians and our own Bushmen. Elsewhere, though the people survive, their customs and their mode of life are changed. They no longer make the things they formerly made, they learn a new language, the customs fall to disuse, and many of their beliefs become forgotten. The very material of which the ethnologist and the social anthropologist rely for their studies is disappearing before our eyes. There is, I think, no other science that is in this position. There is no other in which work which is not done at once will never again be possible. For this reason, then, the urgency of work that cannot wait, and also because of its great importance in relation to the practical problems with which this country is faced by the reason of the native population which surrounds us, I would suggest that there is no more valuable way in which this Association could at the present time carry out its aim of the advancement of science than by encouraging and assisting in every way possible the science of social anthropology and the scientific study of the native peoples of this continent.[43]

British social anthropology did not ignore the political situation and the domination and exploitation of native peoples which is presumed in contemporary anthropology. Instead, functional anthropology was designed with the awareness

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[42] Ibid. p.51.

[43] A.R. Radcliffe-Brown. 'The Methods of Ethnology and Social Anthropology.' 1958 [1923] , pp.37-38.

of the problems native peoples were having under European colonialism. Malinowski, to illustrate, in his first article discussing the new direction of anthropology, in 1922, called 'Ethnology and the Study of Society', says, 'we must remember that slavery, "dispersing of native," indiscriminate "punitive expeditions," and the grossest forms of reckless injustice to natives, are things of the very recent past.' Today there are problems of 'high importance', and, 'the most sinister of these problems is the gradual dying out of the majority of native races,' '...Yet no serious effort has been made by the administrators to assess the danger and try to find out a cure for it.' Malinowski continues:

> For a field ethnologist, however, there is an overwhelming mass of evidence to prove that the remedies for this dreadful danger are within reach. Broadly speaking, the evil is mainly caused by the destruction of all vital interest for the native, by taking away from him of all that was dear and valuable to him, of all that gave him the joy of living. Whole departments of tribal law and morality, of custom and usage, have been senselessly wiped out by a superficial, haphazard legislation, made in the early days often by newcomers unused to native ways and unprepared to face a difficult problem. They applied to the regulation of native life all the prejudices of the uneducated man to anything strange, foreign, unconventional and to him incomprehensible. All that would appear to a convention-bound, parochial, middle-class mind as "disgusting," "silly," "immoral" was simply destroyed with the stroke of a pen, and, worse, with rifles and bayonets. And yet a deeper knowledge, based on real human sympathy and on conscientious scientific research, many of these "savage" customs are revealed as containing the very essence of the tribal life of a people as something indispensable to their existence as a race.[44]

Above all, the new social anthropology was to be practical. The general ignorance, lack of respect, and aggressive intolerance towards native peoples by imposing colonial administrations was horribly destructive. It was hoped that the knowledge and understanding acquired from social anthropology would help the colonial powers better administer the people living in the occupied territories; and, in the end, actually help to preserve the native way of life. Malinowski, for example, concludes in this first article:

> To draw a moral, I am going to put this case briefly: there is much in native life that has to succumb to the contact with European influence. There is a good deal that is already undermined by missionary teaching and by indefensible claims of European interest and European prejudices. When, therefore,

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[44] Malinowski. 'Ethnology and the Study of Society.' 1922a, p.209.

the legislator and administrator, in a burst of uncalled-for reformatory zeal, further prune and uproot much of the native's tree of life- is there no urgent need to stop and think? To invoke the advice of dispassionate study and expert opinion? I have only touched on one, though the most essential point where scientific study ought to be taken into the councils of colonial administration and legislation, that, namely of preserving the integrity of tribal life as far as possible, so as to prevent complete extinction[45]

Similarly, in an paper called 'Applied Anthropology', which was another presidential address, this time to the Australian and New Zealand Association for the Advancement of Science, in 1930, Radcliffe-Brown understood that the application of social anthropology was for the purpose of helping those in the colonial administration who were controlling native affairs. Specifically, Radcliffe-Brown criticizes the view, held by the white races and the British empire, that they have the right to take over huge areas of territory all over the world and impose 'important changes in culture'. In contrast, Radcliffe-Brown proposes a 'modern view, which some would call humane, and some sentimental, is opposed to the extermination of native peoples in the way in which the aborigines of North America and Australia have been or are being exterminated. Here, therefore, in the deliberate attempt made to control and alter the civilisation of other peoples in administration and education there is a field for applied anthropology, for the application in practice of any sound theoretical knowledge that we may possess concerning the phenomena of social life.'[46]

Both Radcliffe-Brown and Malinowski rejected the old social evolutionist model of human society because it was based on speculation and it actually contributed to the misconceptions held about native peoples. Malinowski, for example, rejected the two major old schools of anthropology, the evolutionists and the diffusionists,

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[45] Ibid. pp.214-215.

[46] Radcliffe-Brown. 'Applied Anthropology. ' 1930, p.269.

because their 'theories of origin or of historical migrations' transplanted their explanations to a 'setting into a dim past- from six to sixty thousand years back. The observer, as often as not a partisan of one theory or another, had his mind turned backwards, riveted on hypotheses and conjectures which made him see the present through the haze of the past; which made him focus on details and elements significant not in their actual context and in their mutual relation, but as relics of something which was no more, and, except in speculation, had perhaps never existed.[47]

Radcliffe-Brown, as well, was concerned with the distorted interpretations that social evolutionism was projecting onto native societies. In fact, Radcliffe-Brown often referred to the old anthropology as being founded on 'conjecture' and what he called 'hypothetical reconstruction's of the past'. To illustrate, in his South African address, Radcliffe-Brown emphasizes, 'what I am trying to make clear to you is that the continual search for the theories of origin has prevented the development of social anthropology along lines which would give the most valuable results. It is only not necessary for social anthropology to concern itself with theories of historical origins, but such theories, or the concentration of attention on them, may do a great deal of harm.'[48]

In order to avoid the destructive misconceptions inherent to social evolutionism, both Radcliffe-Brown and Malinowski, opted for an interpretation of human society that assumed all societies were equal. Explanation was not achieved by considering these people as relics of past stages in human history, but, as they existed today, as people with a human subjective side. Native custom was

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[47] Malinowski. 'The Anthropology of Africa.' 1931, p.656.
[48] Radcliffe-Brown. 'The Methods of Ethnology and Social Anthropology.' 1958 [1923], p.23.

regarded as functional, and, as an integral part of an adaptive and equally legitimate society. Ultimately, Radcliffe-Brown and Malinowski wanted an interpretation of the native way of life in terms of its own context and a study that was to be based on fact and not mere speculation.

To be more specific, in an article written in 1931 called 'The Anthropology of Africa' Malinowski says that in contrast to the old anthropology, 'functional anthropology aims at the reproduction of the native point of view and the native perspective combined with sociological knowledge of what is essential and vital in human institutions.' For Malinowski, such a focus brings functionalism immediately in 'touch with practical concerns'. 'All that really matters to the native, all that really serves to maintain order and integrity in a primitive culture and primitive society, is selected as the main subject for anthropological study.'[49]

This different approach to anthropological interpretation is reflected in Malinowski's first ethnographic work, in 1922, called 'Argonauts of the Western Pacific', where Malinowski gives an account of the Trobriand way of life that is seen through their eyes and not through an imposed European conceptual framework that considered native society as evolutionarily less developed. By contrast, Malinowski's picture is an incredibly rich and sensitive in the documentation of the life and reality of the people of the Trobriand Islands. Malinowski concentrates on what the Trobrianders consider significant and important in life. In particular, Malinowski looks at the essential economic exchange system, called the Kula, which is given description and meaning in terms of Trobriand reality and the social context as a whole. At the end of this work,

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[49] Malinowski. 'Ethnology and the Study of Society.' 1922a p. 656.

Malinowski defines this method of ethnography and suggests that ultimately the goal is:

> ...to grasp the native's point of view, his relation to life, to realize his vision of his world. We have to study man, and we must study what concerns him most intimately, that is, the hold which life has on him. In each culture, the values are slightly different; people aspire after different aims, follow different impulses, yearn after a different form of happiness. In each culture, we find different institutions in which man pursues his life-interest, different customs by which he satisfies his aspirations, different codes of law and morality which reward his virtues or punish his defections. To study the institutions, customs, and codes or to study the behavior and mentality without the subjective desire of feeling what these people live, of realising the substance of their happiness- is, in my opinion, to miss the greatest reward which we can hope to obtain from the study of man.[50]

British social anthropology, in general, introduced and was characterized by this distinct method of data collection referred to as intensive fieldwork. The first one to define and encourage this method of anthropological inquiry was W.H.R. Rivers. Specifically, Rivers explains that in contrast to the brief time that an ethnographer spends in the field with the survey method of data collection, 'a typical piece of intensive work in one in which the worker lives for a year or more among a community of perhaps four or five hundred people and studies every detail of their life and culture; in which he comes to know every member of the community personally; in which he is not content with generalized information, but studies every feature of life and custom in concrete detail by means of the vernacular language.' Through the use of such a method Rivers maintains that it is easy 'to discover the incomplete and even misleading character of much of the vast mass of survey work which forms the existing material of anthropology.[51]

Both Radcliffe-Brown and Malinowski were students of Rivers; and consequently, they were the first to produce ethnographic accounts based on intensive fieldwork. Coincidentally released in the same year, 1922, their ethnographic accounts were

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50 Malinowski. *Argonauts of the Western Pacific*. 1922, p.25.

51 W.H.R. Rivers. 'Report on Anthropological Research Outside America.' 1983 [1913], p.7.

with: Radcliffe-Brown, 'The Andaman Islanders'; and, as previously mentioned, Malinowski with 'Argonauts of the Western Pacific'. Malinowski explains, in this first ethnography, what intensive fieldwork has meant for the ethnographer:

> There is all the difference between the sporadic plunging into the company of natives, and really in contact with them. What does the latter mean? On the Ethnographer's side, it means that his life in the village, which at first is strange, sometimes unpleasant, sometimes intensely interesting adventure, soon adopts quite a natural course very much in harmony with his surroundings. Soon after I had established myself in Omarakana (Trobriand Islands), I began to take part, in a way, in the village life, to look forward to the important or festive events, to take personal interest in the gossip and the developments of the small village occurrences; to wake up every morning to a day, presenting itself to me more or less as it does to the native. I would get out from under my mosquito net, to find around me the village beginning to stir, or the people well advanced in their working day according to the hour and also to the season, for they get up and begin their labours early or late, as work presses. As I went on my morning walk through the village, I could intimate details of family life, of toilet, cooking, taking of meals; I could see the arrangements for the day's work, people starting on their errands, or groups of men and women busy at manufacturing tasks. Quarrels, jokes, family scenes, events usually trivial, sometimes dramatic but always significant, formed the atmosphere of my daily life, as well as theirs.[52]

In order to systematize and derive interpretation from field data Malinowski relied on the rigor of the scientific approach. Data was to be collected systematically and made explicit; but, only after testing and retesting of hypotheses could an interpretation be achieved. Most importantly, Malinowski emphasized careful, honest, and conscientious work. All throughout Malinowski's works the reader is aware of what data and observations he is basing his inferences and generalizations on. The results of scientific research, he says, 'in any branch of learning ought to be presented in a manner absolutely candid and above board.'[53] This scientific approach to the study of human society, however, must always be grounded in the native perspective. For instance, in 'Argonauts of the Western Pacific' Malinowski explains that he tried to give us in this ethnography was:

> ...a vivid impression of the events enabling him to see them in their native perspective, at the same time without for a moment losing sight of the method by which I have obtained my data. I have tried to present everything as far as possible in terms of concrete fact, letting the natives speak for themselves, perform their transactions, pursue their activities before the readers mental vision. I have

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52 Malinowski. *Argonauts of the Western Pacific*. 1922, p.7.

53 Ibid. p.2.

tried to pave my account with fact and details, equip it with documents, with figures, with instances of actual occurrence. But at the same time, my conviction expressed over and over again, is that what matters really is not the detail, not the fact, but the scientific use we make of it. Thus the details and technicalities of the Kula acquire their meaning in so far only as they express some central attitude of mind of the natives, and thus broaden our knowledge, widen our outlook and deepen our grasp of human nature.[54]

Radcliffe-Brown also appropriated the scientific method and the goal of achieving law-like generalizations. In Radcliffe-Brown's South African address, where he first discusses the scope and method of social anthropology, he explains the use of science. Radcliffe-Brown refers to this new type of study as 'inductive, because in its aims and methods it is essentially similar to the natural or inductive sciences. The postulate of the inductive method is that all phenomena are subject to natural law, and consequently it is possible, by the application of certain logical methods, to discover and prove certain general laws.'[55]

For Radcliffe-Brown, if social anthropology was to progress it must follow these rules of scientific induction. 'Facts must be observed, and a hypothesis must be found which seems to explain the facts.'[56] The next step for Radcliffe-Brown was to return again to direct observation 'in order to verify and test hypothesis. We may find the working hypothesis has to be modified, or that it has to be rejected and a new one formed. And so the process goes on until we have established our hypothesis as a theory with some degree of probability.'[57]

The theory that Radcliffe-Brown and Malinowski used to hang the data together was directly oriented to a colonial viewpoint that regarded native society as

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[54] Ibid. p.516.
[55] Radcliffe-Brown. 'The Methods of Ethnology and Social Anthropology.' 1958 [1923], p.7.
[56] Ibid. p.34.
[57] Ibid.

inferior. Audrey Richards, a student of Radcliffe-Brown and Malinowski, points out that they both had an underlying 'assumption that it is essential that cultures should continue to survive'.[58] Lucy Mair, another student, to elaborate, says that Malinowski would 'argue that all attempts to improve conditions of small-scale societies are liable to do more harm than good.'[59] Ultimately, this concern for the preservation and non-interference of native societies led to the formulation of a social theory that assumed all societies were functional and that tampering with any part would destroy it.

It was understood that the various institutions or components of society were fully integrated and functional in relation to the whole of native society. This depiction of human society is especially obvious in Malinowski's four ethnography's on the Trobriand Islanders. For example, in Malinowski's third monograph entitled, in 1932, 'The Sexual Life of Savages'; he demonstrates how the sexual customs of the Trobrianders are functionally related to the whole of social life. In particular, this work came out in three volumes and in the third he attached a special edition where Malinowski states what he was trying to accomplish in the first two volumes. In the first two volumes, Malinowski says:

> I intended to give a concrete example showing that a subject like sex cannot be treated except in its institutional setting, and through its manifestations in other aspects of culture. Love, sexual approaches, eroticism, combined with love-magic and the mythology of love, are but a part of customary courtship in the Trobriands. Courtship, again, is a phase, a preparatory phase, of marriage, and marriage but one side of family life. The family itself ramifies the clan, into relations between matrilineal and patrilineal kindred; and all these subjects, so intimately bound up with one another, constitute really one big system of kinship, a system which controls the social relations of the tribesman with each other, dominates their economics, pervades their magic and mythology, and enters into their religion and even artistic productions... My main aim in this book, however, was to show that from whichever side you approach it, the problem of sex, family, and kinship presents an organic unity which cannot be disrupted.[60]

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[58] Audrey Richards. 'The Concept of Culture in Malinowski's Work.' 1957, p.17.

[59] Lucy Mair. 'Malinowski and the Study of Social Change.' 1957, p. 263.

[60] Malinowski. *The Sexual Life of Savages in North-Western Melanesia*. 1932, p. xx-xxi.

In Malinowski's fourth and last monograph on the Trobrianders, called 'The Coral Gardens and their Magic' his functionalist interpretation of human society is most fully developed. Malinowski believed it was the best work 'I have ever produced or am ever likely to produce'[61] In fact, this work can be considered a grand synthesis of the institutions of society into a fully integrated whole. Specifically, Malinowski looks at the system of Trobriand land tenure and how it relates broadly to all aspects to all other aspects of society. Malinowski thinks that the understanding of this concept is extremely important because 'mistakes in land policy have caused the greater part of colonial and imperial difficulties'.[62] Malinowski criticizes the colonial administration for having too limited, and a strictly political, understanding of land tenure. In contrast, Malinowski states:

> As we know, the purely economic uses of land cannot be separated from rights of settlement, political claims, freedom of communication and transport; from territorial privilege connected with ceremonial, magical and religious life. No doubt the economic utilisation of land forms the solid core of all privileges and claims. But land tenure must be conceived in a more comprehensive manner: it is the relationship of man to soil in the widest sense; that is, in so far as it is laid down in native law and custom and in the measure in which it controls political life, affects the performance of public ceremonies and gives access to opportunities for recreation and sports. Man's appointed and culturally defined place on his soil, his territorial citizenship, his type of residence, and those rights which underlie the various uses of soil from an organic whole of which the economic exploitation is but a part, albeit the most important part.[63]

This approach to looking at customs or institutions of native society as integrative or functional is also demonstrated in Radcliffe-Brown's work. For example, in a paper read before the South African Association for the Advancement of Science, in 1924, called 'Mother's Brother', Radcliffe-Brown re-interprets the relationship of the sister's son to the mother's brother from the perspective of social anthropology. Radcliffe-Brown comments that the usual way to explain this

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61 Malinowski. *Coral Gardens and Their Magic*. Vol. 1, 1935, p. xxii.
62 Ibid. p.318.
63 Ibid.

institution 'was to offer a pseudo-historical explanation to the effect that it was a survival of a patrilineal society from a former condition of mother right'.[64] Instead, as an alternative explanation, he suggests that the anthropological interpretation of this particular institution should be derived by looking 'for a theoretical understanding of it as a part of a kinship system of a certain type, within which it has discoverable function.'[65] By examining this institution in terms of its sociological integration, Radcliffe-Brown comes to the conclusion that:

> The pattern of behavior towards the mother, which is developed in the family by reason of the nature of the family group and its social life, is extended with suitable modifications to the mother's sister and to the mother's brother, then to the group of maternal kindred as a whole, and finally to the maternal gods, the ancestors of the mother's group. In the same way the pattern of behavior towards the father is extended to the father's brothers and sisters, and to the whole of the father's group (or rather to all the older members of it, the principle of age making important modifications necessary), and finally to the paternal gods.[66]

Radcliffe-Brown developed the theoretical constitution of the functional interpretation of human society the furthest. In an article written in 1935 called 'On the Concept of Function in Social Science', Radcliffe-Brown explains that the concept of 'function' is based on 'an analogy between social life and organic life'[67] Radcliffe-Brown mentions that this interpretation of human society is based on the sociological work of Emile Durkheim. In applying this approach to the study of society, social systems are understood as a living organisms. To be more specific, Radcliffe-Brown says:

> To turn from organic life to social life, if we examine such a community as a African or Australian tribe we can recognise the existence of a social structure. Individual human beings, the essential units in this instance, are connected by a definite set of social relations into an integrated whole. The continuity of the social structure, like that of an organic structure, is not destroyed by changes in the units. Individuals may leave the society, by death or otherwise; others may enter it. The continuity of structure is maintained by the process of social life, which consists of the activities and interactions of the individual human beings and of the organised groups into which they are united. The social life

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64 Radcliffe-Brown. 'The Mother's Brother in South Africa.' 1952 [1924], p.13.
65 Ibid.
66 Ibid. pp.27-28.
67 Radcliffe-Brown. 'On the Concept of Function in Social Science.' 1952a [1935], p.13.

of the community is here defined as the functioning of the social structure. The function of any recurrent activity, such as the punishment of a crime, or a funeral ceremony, is the part it plays in the social life as a whole and therefore the contribution it makes to the maintenance of the structural continuity. The concept of function as here defined thus involves the notion of a structure consisting of a set of relations amongst unit entities, the continuity of the structure being maintained by a life process made up of the activities of constituent units.[68]

Radcliffe-Brown distinguished his approach to anthropology, from Malinowski, by concentrating analysis on the integrative effects of the social structures of a society. In particular, Radcliffe-Brown explains his approach in a preface written in 1932 for a reprinted edition of the 'Andaman Islanders'. In this preface, Radcliffe-Brown, suggests that 'the discovery of the integrative function of an institution, usage, or belief is to be made through the observation of its effects, and these are obviously in the first place effects on individuals, or their life, their thoughts, their emotions. Not all such effects are significant, or at least equally so. Nor is it with the immediate effects with which we are concerned, but, with the more remote effects upon social cohesion and continuity.'[69]

To elaborate, in a seminar presentation prepared for the faculty of the Social Science Division of the University of Chicago, in 1937, Radcliffe-Brown says, it is the 'structural form of the society' which the anthropologist has to describe.'[70] He explains, 'now we can observe the social structure. The structure consists of the sum total of all the social relationships of all individual's at a moment in time.'[71] For Radcliffe-Brown, these social relationships or 'norms' as he calls them are 'characterized by what people say about the rules in a given society'.[72] Thus, the

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68 Ibid. p.180.
69 Radcliffe-Brown. *Andaman Islanders*. 1933 [1922], p.x.
70 Radcliffe-Brown. A Natural Science of Society. 1948, p.56.
71 Ibid. p.55.
72 Ibid. p.58.

goal of anthropology is to observe and determine the social relations or institutions of a society in terms the overall functioning whole.

Most important to Radcliffe-Brown was the extension of this study of social structure to a comparative analysis, what 'we might call social morphology'[73] In discussing his most important thesis of the seminar presentations, Radcliffe-Brown says that, 'the fundamental problems of such a science must depend on the systematic comparison of a sufficient number of societies of sufficiently diverse types.' Comparisons between human societies were needed in order to arrive at generalizations about structural forms. Therefore, for Radcliffe-Brown, the development of a scientific anthropology depended 'on the gradual improvement of the comparative method and its refinement as an instrument of analysis, and this will require the continuous improvement of our methods of observing and describing societies; the elaboration and exact definition of the fundamental concepts required for the description, classification and analysis of social phenomena; and the development of a systematic classification of types of societies.'[74]

'Comparative sociology' as Radcliffe-Brown sometimes referred to this approach, is a theme strongly emphasized throughout Radcliffe-Brown's anthropology. For example, in a work called the 'Social Organization of Australian Tribes' Radcliffe-Brown applies a comparative analysis to the Australian aborigines in order to derive the different types. In discussing what he was trying to accomplish in a preface to another book, Radcliffe-Brown says, that 'the Australian aborigines were divided into some hundreds of separate tribes, each with its own language,

[73] Ibid. p.56.
[74] Ibid. p.141.

organization, customs, and beliefs; but, an examination of sufficient sample shows that beneath the specific diversities there are such general similarities that we can constitute and describe in general terms an Australian tribe.[75]

A good summary and picture of what Radcliffe-Brown was after is provided in a letter written in 1953 to wrote to Claude Levi-Strauss. In discussing the difference of his idea of social structure, Radcliffe-Brown begins:

> As you have recognized, I use the term 'social structure' in a sense so different from yours as to make a discussion so difficult as to be unlikely to be profitable. While for you, social structure has nothing to do with reality but with models that are built up, I regard the social structure as reality. When I pick up a particular sea shell on the beach, I recognize it as having a particular structure. I may find other shells of the same species which have a similar structure, so that I can say there is a form of structure characteristic of the species. By examining a number of different species, I may be able to recognize a certain general structural form or principle, that of a helix, which could be expressed by means of logarithmic equation. I take it that the equation is what you mean by 'model.' This, I call the social structure of that particular group at that moment of time. Another local group has a structure that is in important ways similar to that of the first. By examining a representative sample of local groups in one region, I can describe a certain form of structure. I am not sure whether by 'model' you mean the structural form itself or my description of it. The structural form itself may be discovered by observation, including statistical observation, but cannot be experimented on. You will see that your paper leaves me extremely puzzled as to your meaning. In dealing with Australian kinship systems, I am really only concerned with arriving at correct descriptions of particular systems and arranging them in valid typological classification. I regard any genetic hypothesis as being of very little importance, since it cannot be more than a hypothesis or conjecture.[76]

Myer Fortes, a student of Radcliffe-Brown and Malinowski, says that Radcliffe-Brown's type of study was extremely helpful in terms of the 'analysis of primitive political institutions'. 'In particular, this way of looking at social structure has revealed quite complex machinery of political and legal organization in societies formally dismissed as being devoid of political and legal institutions'.[77] For example, Radcliffe-Brown's understanding of political structure, as Fortes mentions, is provided in a preface written in 1940 to "African Political Systems'. In criticizing the application of the popular and limited political definition of 'state'

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75 Radcliffe-Brown. 'Preface'. 1940, p.xii.

76 Radcliffe-Brown. 'Letter to Levi-Strauss.' 1977 [1953], p.42.

77 Myer Fortes. 'Radcliffe-Brown's Contribution to the Study of Social Organization.' 1955, p.22.

to native societies, Radcliffe-Brown says 'this does not help us'. Instead, Radcliffe-Brown suggests that:

> Every human society has some sort of territorial structure. We can find clearly-defined local communities the smallest of which are linked together in a larger society, of which they are segments. This territorial structure provides the framework, not only for the political organization, whatever it may be, but for other forms of social organization also, such as the economic, for example. The system of local aggregation and segregation, as such, has nothing specifically political about it; it is the basis of social life.[78]

To a large extent, and especially in his later works, Radcliffe-Brown devoted his attention to the development of theoretical anthropology. He always distinguished between applied and theoretical anthropology, and, thought that it was very important to try to uncover the general laws of society. To illustrate, in an article written in 1944 called 'The Present Position of Anthropological Studies', Radcliffe-Brown says, 'the demand on social anthropologists to spend too much of their time on practical problems would inevitably reduce the amount of work that can be given to the development of the theoretical side of science. But without a sound basis in theory, applied anthropology must deteriorate and become not applied science, but merely empirical practice.'[79] Ultimately, Radcliffe-Brown wanted to improve the condition of life of native peoples. He maintained strongly, however, that we must first understand society and then we can change it. It is through the development of theoretical anthropology that applied anthropology will be more effective. For example, in conclusion to a presidential address to the British Association for the Advancement of Science, in 1931, Radcliffe-Brown maintains that:

> ...in spite of repeated setbacks and disappointments, anthropology has at last succeeded in winning for itself some place in the world of practical affairs, some measure of recognition as a study that can make most valuable contributions to the problems that are going to be amongst the most importa[illegible] with which this century is faced, those that have arisen from the mingling of diverse peoples and cultures all over the world. The task of the twentieth and succeeding centuries is that of uniting all peoples of the world in some sort of ordered community. Attention has quite naturally been

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[78] Radcliffe-Brown. 'Preface.' 1940, p.xiv.

[79] Radcliffe-Brown. 'The Present Position of Anthropological Studies.' 1958a [1931], pp.105-106.

concentrated on the relations of the great nations. But the problems of finding a proper place in the world community for the tribes of Africa, Asia and Oceania are possible not less vital to the successful completion of the task.[80]

Unlike Radcliffe-Brown, Malinowski became more and more concerned with the practical application of social anthropology in his work. This is a theme first developed in an article in 1929 called 'Practical Anthropology' where he discusses the purpose of research for the International Institute of African Languages and Cultures. Specifically, Malinowski thinks that the 'very combination of practical and theoretical interests lies in the proper task of the Institute. There is a gap between the theoretical concerns of the anthropology of the schools on the one hand, and practical interests on the other. This gap must be bridged over, and in doing this the Institute can make itself very useful. To elaborate, in this article, Malinowski suggests that anthropology needs to address 'practical problems' such as 'the important issue of direct versus indirect rule'. In addition, anthropology must direct itself to other aspects of study which can provide insight for the colonial administrator, like, the study: of 'primitive law', 'primitive languages', 'issues of land tenure', 'primitive economics', and the 'changing native'.[81]

Lucy Mair mentions that Malinowski's visit to Africa in 1934 'reinforced his conviction that the anthropologist had an important contribution to make in the formulation of policy, and also led to a shift in the emphasis of his writing from warnings of disintegration effect of enforced change to criticisms of colour bar policies and pleas for the extension to the African of every aspect of European

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[80] Ibid. p.95.

[81] Malinowski. 'Practical Anthropology.' 1929a, p.22-23.

culture.'[82] In fact, Malinowski shifted his attention and anthropological study to the changing native. Lucy Mair says that 'the study of culture change (as it was called at that time) was, then, closely bound up with the practical application of anthropological knowledge, and in the thinking and writing of Malinowski they were never separated.[83] This concern for the contemporary situation of native peoples meant for Malinowski an adjustment in the anthropological outlook. For example, in his first major work on social change called 'Methods of Study in Culture Contact in Africa', in 1938, Malinowski says:

> The anthropologist is now faced with a tragic situation which has often been bewailed in lecture rooms and in print, even by the present writer. Just as we have reached a certain academic status and developed our methods and theories, our subject matter threatens to disappear. In some parts of the world it has been wiped out -as Tasmania, the eastern states of America, and certain islands of the Pacific. Instead, however, of lamenting the inevitable, we must face the new, more complex task which history has set before us, the task of building new methods and principles of research in order to reclaim the 'anthropological no-mans-land' and take up 'the new branch of anthropology... the anthropology of the changing native.[84]

In an article called 'The Present State of Studies in Culture Contact', in 1939, Malinowski's concern with social change became even stronger. For example, he suggests that the necessary task of anthropology was to study, the 'only actuality open to observation', that is, 'culture under conditions of change, of more or less rapid assimilation'.[85] The study of social change, therefore, brings anthropology immediately in touch with practical issues and with what is important to native people. This focus and investigation into social change automatically reveals that the imposition of the colonial structure is horribly one-sided and that native culture is being destroyed. In defining the study of social change, Malinowski says that:

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[82] Mair. 'Malinowski and the Study of Social Change.' 1957, p. 261.

[83] Ibid.

[84] Malinowski. 'Methods of Study of Culture Contact.' 1938, p.xii.

[85] Malinowski. 'The Present State of Studies an Culture Contact; Some Comments on the American Approach.' 1939, pp.27-28.

> The contact anthropologist has to study the methods of recruitment and the wage system, the effects of the Colour Bar legislation and of anomalous contracts of African labour, as well as of the Pass Laws. He must study these facts scientifically, objectively, and in relation to each other. He need not in his scientific work be concerned with any partisan or even practical issues. But his study will reveal to him that for the present the Europeans are in a position to dictate the legal and economic terms. The conditions thus imposed are found to produce definite effects. Thus, if he studies the budgets of a family dependent on wages, he will find that the income does not really balance with expenditure. Scientific field-work reveals that the wages received by a mine labourer do not compensate the tribal economy for the total loss caused by absence. From this it would be his duty to draw the conclusion that a system which produces inevitable impoverishment in a native reserve must lead through malnutrition, disorganization, and demoralization to gradual demographic decay.[86]

In order to understand the full dynamics of the colonial situation Malinowski advocated for a broad perspective. Specifically, Malinowski says in a one of a series of essays on culture change which were compiled posthumously by a student, Phyllis Kaberry, and published in 1945, in a book called 'The Dynamics of Culture Change', that: 'in this new work the theoretician and the practitioner must take account of wide issues of Western rule, economic as well as imperial; they have to be acquainted with the rudiments at least of economic, legal, and political theory and, with all this, of anthropological method.[87] In fact, Malinowski actually criticizes the harmonious and integrative emphasis of the functionalist approach for being too limited, by saying that it 'ignores the whole dynamism of the process'. The integrative approach takes 'no account of the main fact in culture change, that is, that European residents, the missionaries and the administrators, the settlers and the entrepreneurs, are indeed the main agents of change. The concept of a well-integrated community would, indeed, ignore such facts as the color bar, the permanent rift which divides the two partners in change and keeps them apart in church and factory, in matters of mine labor and political influence.'[88]

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[86] Ibid. pp.37-38.
[87] Malinowski. *The Dynamics of Culture Change*. 1945, p.9.
[88] Ibid.p.15.

Especially in this later part of Malinowski's career, his anthropology was always directed to contemporary social and political issues. For example, in an article published after his death, in 1943, called 'The Pan-African Problem of Culture Contact', Malinowski compares the social segregation of races in the southern United States with that in Africa. In both instances, Malinowski says that:

> ...we have groups of different racial stock living in the same territory, yet socially segregated, subject to legal and political discrimination, forced into different occupations, and prevented, more or less effectively, from mixing with each other in marriage. Wherever caste has been stabilized, wherever the network of rules, prohibitions and restrictions has been accepted by lower and higher alike and has led to permanent adjustment, the system shows glaring evils- on the surface at least. In reality, however, it is inevitably a source of weakness, it prevents the community as a whole presenting a united front, it leads to brutality and abuses from above, to servility and deceitfulness from below. The social disabilities weigh heavily on the lower and demoralize the higher stratum. Practical and legal discrimination is a perpetual source of abuse, dishonesty, and graft. Sexual relations between the two strata are essentially unsound, leading to bastardization of the lower caste and to preventive taboos with lynching and draconic laws meant to protect the women of the higher caste; while on the economic side, as we have abundantly proved, the caste system in its modern setting leads to forced labor with all its inherent evils. The point need not be labored, however, because everything which has been said in this article about maladjustments and difficulties in the relations between black and white is an indictment of the caste system.[89]

Malinowski's concern for contemporary human issues is especially evident in the last book he was working on, published posthumously in 1947, called 'Freedom and Civilization'. Written during W.W.II, Malinowski discusses the concept of freedom and how it relates to culture and democracy. Ultimately, Malinowski argues that totalitarianism, like that of Nazism, is the absolute enemy of freedom. Socially, in order to prevent such doctrines of 'brutality and military force' we must always be 'prepared' to fight and be constantly aware of the ideals of freedom. To illustrate, in discussing the question 'What are we Fighting for?' Malinowski says:

> In the previous pages it was shown clearly and conclusively that this question must be answered and answered scientifically. A call was made there for intellectual vigilance and for a mobilization of scientific thought and academic activities on the urgent issues of the day. Among other deficiencies of our unpreparedness, we have also failed to mobilize spiritually. There is no doubt that all around us we here the slogans of "Fight for freedom", "The struggle of democracies against slavery", "The

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[89] Malinowski. 'The Pan-African Problem of Culture Contact.' 1943, pp.62-63.

need of establishing justice and decency in the world". Yet when one of us raises his voice to affirm such values as "freedom", "justice", and "democracy", he does it at the risk of being accused of the academic unpardonable sin of "value judgments" or "suffering from a moral purpose".[90]

Anthropology should always address itself to the contemporary social and political issues. As Malinowski sees it, in the case of the war torn world, 'the duty, therefore, of making clear scientifically to what realities the word freedom can be legitimately applied, and where it appears out of bounds in so far as any semantic legitimacy is concerned, is not to be shirked. We cannot allow the basic concept which controls the main issue of to-day- over which nations are at war, and over which they will have to determine a peace which will seal the future destinies of mankind- to remain vague, elastic and unviable to an extent which allows it to be prostituted in any argument or counterargument.[91]

In summary, the functional perspective of human society was a theoretical response by British social anthropology to the social evolutionist thinking that was used to support colonial domination and disregard native rights by suggesting that native peoples were less socially evolved. As an alternative, Radcliffe-Brown and Malinowski developed a theory that dealt with this colonial political dimension by assuming native society was equally functional, fully integrated, and, that change was more likely to do harm than good. Moreover, functional anthropology rejected the historical social explanations and maintained, instead, that native people must be considered as they are today and not as representations of past stages in human history. In order to prevent speculative anthropology the British social anthropologists advocated for a scientific approach to data gathering and interpretation which would build towards general social understandings.

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90 Malinowski. *Freedom and Civilization*, 1944, p.19.
91 Ibid. p.23.

Therefore, the criticisms put forward that functional theory is conservative is highly inaccurate. Instead, when we look at functional anthropology in its proper political context it was an extremely progressive theory that was framed by a particular political agenda. Functional anthropology chose to depict native societies as harmonious entities not because they were denying colonial domination, but, because they didn't want any colonial tampering. However, if there was any colonial change implemented they wanted it to be educated, informed, and respectful, and, not based on ignorance. In addition, functionalism did not reject the role of history on societies, rather, they rejected the speculative historical theories. As a consequence, they developed what they thought to be a completely new study of society, sociological analysis, one that would be complimentary to historical approaches. Moreover, Malinowski was keenly aware of the limitations of the functional perspective and advocated for a broad perspective that would take into consideration colonial domination. Lastly, the British social anthropologists had a vision of the future where all peoples would live together in peace. I will now turn to a discussion of the cultural ecology approach to anthropology and what Julian Steward was trying to accomplish.

Chapter 3

A Closer Look at Julian Steward's Anthropology

Steward's distinct approach to anthropology was first introduced theoretically in 1936 in a paper called 'The Economic and Social Basis of Primitive Bands'.[92] In this work, Steward conducted a systematic and comparative study of the types of band social structures of several 'hunters and gatherers' around the world and found a correlation between social structure and environment. Specifically, in the conclusion to this paper, Steward says that his analysis was based on the scientific 'assumption that every cultural phenomenon is the product of some definite cause or causes'. The particular causality or determiner of the structural type of the 'primitive bands', that Steward identifies, is found in the specific 'environmental basis'. Ultimately, for Steward, through comparative analysis this approach can be used to find law-like generalizations. In fact, Steward ends this paper by relating to this goal with the statement that this paper marked 'the first of a series' where he would address the various social characteristics or 'problems concerning the hunters and gatherers with a low subsistence level'.[93]

In terms of ethnographic work, Steward's primary experience was with the Shoshonean speaking Indians of the Great Basin in the American Southwest. Steward's acquaintance with the Indians of this area began as a teenager when he was sent to preparatory school near Owens Valley Paiute Reservation. In addition, Steward's training in anthropology began as a student of archeology and the majority of his early writings were in prehistory of the Great Basin. Steward's first ethnographic work of contemporary Shoshonean Indians was published in

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92 Julian Steward. 'The Economic and Social Basis of Primitive Bands.' 1936.
93 Ibid. p.345.

1933 and was called 'Ethnography of Owen's Valley Paiute'. Later, Steward conducted more extensive survey fieldwork, which, was also primary ethnographic reconnaissance, of the Indian peoples in the Great Basin for Alfred Kroeber's culture element distribution studies organized out of Berkeley University. Subsequently, Steward followed up on this study of the Great Basin peoples for the Smithsonian Institution Bureau of American Ethnology and published his principal ethnographic work called 'Basin-Plateau Aboriginal Sociopolitical Groups in 1938'.

In this ethnographic text Steward says that the primary problem that he will be addressing is to ascertain the effect of ecology, which he defines as the techno-environment, upon the sociopolitical institutions. Steward explains that 'most societies are manifestly the end result of a long history of internal development, borrowing, and adaptation to a particular environment'[94] which makes the 'factors or determinants' of any society 'ordinarily forbidding'. However, with 'simple hunters and gatherers' analysis can achieve the 'greatest success' because these societies 'evince a less complicated history, whose structure is simpler in content and form, and whose institutions were most extensively patterned by subsistence activities'.[95] The Shoshoneans, Steward maintains, provide such an example because 'their culture was meager in content and simple in structure. Pursuits concerned with the problems of daily existence dominated their activities to an extraordinary degree and limited and conditioned their institutions'.[96]

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[94] Steward. *Basin-Plateau Aboriginal Sociopolitical Groups*. 1938, p. 1.
[95] Ibid.
[96] Ibid. p1-2.

With the release of this ethnography, Steward joined on a permanent basis, the Bureau of American Ethnology of the Smithsonian Institution and later became the director of ethnological research. During this time with the Smithsonian Institution Steward coordinated many ethnological projects, but, the one that stands out is a seven volume work called the 'Handbook of South American Indians'. In 1946, Steward went to Columbia University where he was to have a huge impact on the anthropological viewpoint and the generation of students to follow. Steward moved to the University of Illinois, in 1952, and got involved with the U.S. Claims Commission cases, and, where he continued to develop his theoretical anthropology.

In 1955, Steward released his most significant theoretical work, which framed the perspective of his anthropology to follow, in a book called the 'Theory of Culture Change'. Robert Manners, a student of Steward's, explains in Steward's obituary that although Steward never finished his revision, at the time this work represented 'a synthesis of Steward's position on a number of important theoretical issues'.[97] Specifically, in the first half of this text, Steward defines his theory and methodology of culture change, which, he explains in terms of multilinear evolution. The second half of this work provides examples and discussions of the different culture types and lines of multilinear evolution that Steward identifies.

To elaborate, in the introduction to this book, Steward explains the overall layout and what he was trying to accomplish. Steward begins by discussing his introductory chapter where he distinguishes his multilinear concept of human evolution from the nineteenth-century linear social evolutionist view. In chapter 2,

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[97] Robert Manners. 'Obituary of Julian Haynes Steward.' 1973, p.886.

Steward says that he 'develops a method for recognizing the ways in which culture change is induced by adaptation to environment'.[98] It is this adaptation process that Steward calls 'cultural ecology'. In the next chapter, Steward discusses the successive stages of cultural development with the conceptualization that evolution is, 'not only as a matter of increasing complexity but also as one of the emergence of successive levels of sociocultural integration'.[99] The three examples of levels of sociocultural integration that Steward cites in this chapter, he says, that they will suffice 'to illustrate the utility of the concept of sociocultural levels in acculturation studies'.[100] In chapter 4, Steward relates the concept of sociocultural integration to a national-level system; and, in chapter 5 he discusses the concept of culture type. Chapters 6 through 12, Steward analyzes several culture types which are presented successively according to the level of sociocultural integration. Steward explains that:

> The lowest level, that of the Shoshonean Indians of the Great Basin described in Chapter 6,, exemplifies a society of hunters and gatherers which functioned on a family basis. Because the cultural ecological adaptations in this area precluded permanent multifamily societies of any kind, the individual or nuclear family carried on nearly all cultural activities. Among the other hunters and gatherers, special cultural ecological adaptations led to slightly higher levels of sociocultural integration.[101]

In particular, this chapter is called 'The Great Basin Shoshonean Indians: An Example of a Family Level of Sociocultural Integration'. To begin, Steward explains that, in general, the Great Basin cultures are unique because they represent a culture type that was so 'extremely simple'. In referring to this simplicity, Steward discusses culture element lists which assigns a certain number of cultural items to a people and finds that the Shoshonean peoples only had 3,000

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[98] Steward. *Theory of Culture Change*. 1955, p.5.
[99] Ibid. p.5.
[100] Ibid. pp.5-6.
[101] Ibid. p.6.

items. In comparison, he estimates that modern American culture would 'probably run to several million'.[102]

The primary determinant that confined the Shoshonean Indians to a family level of sociocultural integration, for Steward, was the techno-environment. The unusually harsh environment with unpredictable foods and poor technology for food storage disintegrated Shoshonean society into nuclear family units that wandered around the Great Basin in the search for food. Specifically, Steward says that 'the competitive aspect of seed and root gathering together with the erratic annual occurrence of practically all principle foods and the inability of the people to store foods in any locality in sufficient amount to permit considerable numbers of families to remain there for a major portion of the year, all contributed to the fragmentation of Shoshonean society into nuclear family units, which moved about the country seasonally and annually in a unpredictable itinerary.'[103]

Steward explains that because of the poor environmental conditions there was an 'absence of property claims of local groups to delimitable areas' among the Shoshonean Indians. In particular, 'owing to the erratic annual and local-occurrence of foods, the arbitrary exclusion of territorially delimited groups of families from utilization of other territories would have caused starvation and death.[104] Instead, the property notions that the Shoshoneans had towards the natural resources were on a 'first come, first serve' basis.

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102 Steward. 'The Great Basin Shoshonean Indians: An Example of a Family Level of Sociocultural Integration'. 1955, p.102.

103 Ibid. p.107.

104 Ibid. p.108.

For Steward the Shoshonean Indians culture were clearly at a family level of sociocultural integration. The few collective arrangements, including other economic forms such as hunting, political arrangements, and religion, that existed were only temporary and not enough to warrant any sort of overall family cooperation. In fact, Steward says that 'the typical Shoshonean family was independent and self-sufficient during the greater part of the year, perhaps during the 80 or 90 percent of the time. It subsisted and fulfilled most cultural functions with little assistance from other families. It probably could have survived in complete isolation.[105]

According to Steward, this family level of sociocultural integration was reinforced by the kinship system. The marriage system that the Shoshonean Indians practiced was only a contract between individual families and 'it was not governed by territorial or political units'. Even though, for Steward, the marriage system 'united strands in the netlike fabric of Shoshonean society, it could not consolidate or integrate local groups in a political, social, or economic sense. To the contrary, it cut across local boundaries, making interfamilial ties diffuse and thus actually militating against band or community development.[106]

In fact, Steward states in this paper that the culture type of the Shoshoneans is so completely unique and even unprecedented in human cultural evolution. According to Steward, 'if the predecessors of any people who later developed to a community or state level were like the Shoshoneans, we have no way of knowing it. Even if all groups of mankind had begun their cultural evolution with sociocultural units integrated only on the family level, which is doubtful and certainly unprovable, it

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[105] Ibid.
[106] Ibid. p.119.

would not follow that they all had the same cultural configuration, that is, the same cultural type, as the Shoshoneans.'[107] This leads Steward to conclude, 'so far as present evidence is concerned, therefore, the Shoshoneans represent a distinctive and nonrecurrent line of development in the scheme of multilinear evolution.[108]

Steward maintains that it was not until the Whites arrived that the Shoshonean Indians 'developed a higher level of sociocultural integration and a cross-culturally significant type only after the whites entered their country and horses were introduced'.[109] With the horse the Shoshoneans organized into 'multifamily, mounted, predatory bands' which 'depended upon raiding the new resources brought by the whites.[110] Therefore, according to Steward's logic, the Shoshonean Indians evolved to a higher level of sociocultural integration once they had acquired the new horse technology and a dependence on a new but White economic source.

The final phase of Shoshonean cultural evolution, that Steward discusses briefly, was after the Indian wars ended. 'The people who did not enter the reservations rapidly adapted themselves to a new white society by working for ranches, mines, or taking odd jobs in the new towns. The very absence of aboriginal band or community institutions made this adjustment easier. The principle obstacle to rapid and complete assimilation into subculture of the local white American community was and still is race relations, which bar the Shoshoneans from full participation in many crucial aspects of the American way of life[111]

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107 Ibid. p.120.
108 Ibid.
109 Ibid. p.121.
110 Ibid.
111 Ibid.

In an article published in 1956 called 'Cultural Evolution', Steward elaborated on this specific cultural type or line of multilinear evolution. In total, Steward identified and defined four separate lines of evolution: the patrilineal band of hunters like the Bushmen, Negritos, and the extinct Tasmanians; another line, is exemplified by the rubber-farming Mundurucu Indians in the Amazon Valley and the fur-trapping Algonkian Indians of eastern Canada; additionally, Steward identifies the line of irrigation civilizations like Egypt, China, and the Mexico Valley; and, Steward's last line, the development of predatory bands, like that of the Shoshonean Indians who exemplified the evolution from a simple level of the family level of sociocultural integration, to the more highly developed predatory band structures as a result of the introduction of the horse. In particular, Steward says that:

> Our final example of a specific line of evolution is taken from more recent times. When the colonists in America pre-empted the Indians' lands, some of the Indian clans formed a new type of organization. The Ute, Western Shoshoni, and Northern Paiute Indians, who had lived by hunting and gathering in small groups of wandering families, united in aggressive bands. With horses stolen from white settlers, they raided the colonists' livestock and occasionally their settlements... The predatory bands of North America were broken up by the U.S. Army within a few years. But this type of evolution, although transitory, was not unique. In the pampas of South America similar raiding bands arose after the Indians obtained horses. On an infinitely larger scale and making a far greater impression on history were the Mongol hordes of Asia. The armies of Genghis Khan and his successors were essentially huge mounted bands that raided entire continents.[112]

Overall, Steward conceptualized the line of cultural evolution in regards to the New World aboriginal peoples in terms of European culture contact. This is especially evident in Steward's second line, that I cited above, discussed in a paper called 'Tappers and Trappers', published in 1956 and written with Steward's student Robert Murphy. In this paper, Steward and Murphy review two cases of aboriginal acculturation and how they are examples of parallel processes of culture change. They begin by discussing how two seemingly different cultures, the

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[112] Steward. 'Cultural Evolution.' 1977 [1956], p.152.

Mundurucu of Brazil and the Montagnais of Canada, who had an independent band social and political system later have evolved into a higher level of sociocultural integration and the same culture type after influence from similar acculturation processes. They explain, that in both cases the processes of acculturation were similar in the 'manner in which outside commercial influence led to reduction of the local level of integration from the band or village to the individual family and in the way in which the family became reintegrated as a marginal part of the much larger nation. The resultant culture type was similar in each case in that the local culture core contained the all-important outside factor of almost complete economic dependence upon trade goods which were exchanged for certain local produce and because of the functional nature of local production, the family, and other features were directly related to this new element.'[113]

In this comparison, Steward and Murphy demonstrate that both the Mundurucu and the Montagnais have evolved through the same four social stages. The first stage is what they call pre-rubber and pre-fur which is basically the aboriginal culture as it existed previous to colonial times. The second and third stages are, respectively, referred to as marginal involvement and transitional. These two stages represent increasing degrees of dependence on outside trade. Eventually, this acculturation process results in complete dependence on an outside economy which they call the convergence and culmination stage.

The acculturation factor, Steward and Murphy explain, is not only exemplified by these two aboriginal groups but to most 'primitive peoples' throughout the world. In definition, they say that this factor can be stated as follows: 'when goods

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[113] Steward and Murphy. Tappers and Trappers. 1977 [1956], p.152.

manufactured by the industrialized nations with modern techniques become available through trade to aboriginal populations, the native people increasingly give up their home crafts in order to devote their efforts to producing specialized cash crops or other trade items in order to obtain more of the industrially made articles.'[114] This process of acculturation, Steward and Murphy point out 'is evidently irreversible,... aboriginal culture is destined to be replaced by a new type which reaches its culmination when the responsible processes have run their course.[115]

To summarize, Julian Steward's cultural ecology, or approach to anthropology, is one that sees human culture as a direct consequence of the particular technological and environmental adaptations. Steward applies a scientific and an objective analysis of these material features comparatively in order to derive culture type generalizations. Overall, Steward places these identified social types in an evolutionary perspective whereby colonial contact and assimilation is regarded as a constant and inevitable factor. I will now discuss in detail how cultural ecology theory was used in the U.S. Indian Claims Commission.

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[114] Ibid. p.177.
[115] Ibid. p.153.

Chapter 4

Julian Steward and the Indian Claims Commission

To give a brief overview, the Indian Claims Commission was established by an Act of Congress, August 13, 1946. Previous to this time, any Indian tribe or group had to obtain a special jurisdictional act from Congress in order to sue the government in the United States Court of Claims. Primarily, because of the backlog of cases and the years that this process took[116], and, perhaps a stirred consciousness after World War II, Congress created a special jurisdictional tribunal which was meant to address and settle the claims of all American Indians.

The designated Commission was composed of a Chief Commissioner and two Associate Commissioners whose mandate it was to 'hear and determine... claims against the United States on behalf of any Indian tribe, band, or identifiable group of American Indians residing within the territorial limits of the United States or Alaska'.[117] In general, the claims proceedings involved a particular Indian tribe or group as the petitioner and the United States as defendant. The petitioning Indians were represented by private attorneys and the United States was defended against claims by the attorneys of the Indian Claims Section of the Department of Justice. The process involved the situation whereby 'each side collected evidence on the nature of aboriginal use and occupancy of particular areas in order to determine which Indian groups were entitled to compensation for lands taken by the United States, either by treaty or otherwise, and just what lands were in question. Once this phase of the action was settled, the proceedings

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116 Omer Stewart. 'Kroeber and the Indian Claims Commission Cases.' 1961, p.181.
117 Congress. 60 Stat. 1049. August 13, 1946, p.1050.

moved on to the question of value of the lands at the time they were taken from the Indians.[118]

This title phase of the Indian Claims Commission proceedings had special significance to the discipline of anthropology. For the first time in legal history anthropological evidence and testimony was relied upon almost entirely in order to determine aboriginal title. Within anthropology, this situation created a huge amount of turmoil because anthropologists were called upon to serve on behalf of both sides. In fact, this issue of the role of anthropology at these adversarial proceedings was first formally introduced as the topic at a special anthropological symposium held in Detroit, in 1954.

One of the papers given at this symposium was by Julian Steward. In general, Steward's involvement in the Indian Claims Commission proceedings was heavy and extensive. Steward was personally hired to prepare evidence and testify on behalf of the Department of Justice in the cases that involved the Shoshonean speaking Indians of the Great Basin in the American Southwest. In addition, Steward organized ethnohistorical and ethnological research on this area with a number of students out of the University of Illinois for the Department of Justice.

In order to get a better picture of exactly how culture ecology theory was applied in the Indian Claims Commission proceedings I will review the case: 'The Northern Paiute Nation et al. vs. The United States of America'.[119] In general, the Commission proceedings took the basic format, over a number of years, of the filing of a petition by an Indian group to which the Department of Justice would file its

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[118] David Agee Horr. 'Nature and Content of Series.' 1974, p.9.
[119] Indian Claims Commission. *Northern Paiute Nation*. 1975.

answer and denial of the claim. The cases of each side would then be prepared and submitted before the actual hearing took place. After which, the attorneys for the Petitioners would file their Proposed Findings of Fact. In response, the Defendant would submit any objections and their Proposed Findings of Fact. Lastly, the Petitioners would file their objections to the Department of Justice's findings and a New Proposed Findings of Fact. The Indian Claims Commission would then review the exhibits, testimony, and submitted arguments and in turn file its Findings of Fact and Opinion.

In the case, 'The Northern Paiute Nation et al vs. The United States of America', Julian Steward was the expert witness for the defendant and Omer Stewart, an anthropologist out of the University of Colorado, was the expert witness for the petitioners. Omer Stewart added a significant dynamic to this case, because, he along with Julian Steward were considered primary ethnographic witnesses to the Northern Paiute. Between the two of them, in the 1930's, they had conducted the first comprehensive ethnographic survey of the Great Basin area as part of Alfred Kroeber's culture element distribution studies.

Specifically, the Northern Paiute Indians filed a petition and an amended petition, which, as later summarized by the petitioners, was 'a claim for damages for taking of Indian aboriginal title to the Northern Paiute land without payment of consideration.'[120] Overall, the claim involved money compensations for lands that covered area in the states of Oregon, Nevada, Idaho, and California. The government, in answer to this petition, filed its defense that the government was not liable for any claims because the petitioners did not hold original Indian title.

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120 Petitioners' Objections to Defendant's Requested Findings of Fact. *Northern Paiute Nation.* 1975, p.2.

The defendant argued that the Northern Paiute could not be considered a tribe or band because they were not a united community under one leadership, nor did they exclusively occupy a definable area; and, if any bands ever existed they ceased to exist prior to the alleged taking and they became predatory groups which were disassociated from land use and ownership. This general line of argument by the defendant is summarized in the first two defense's:

First Defense

1. The purported petitioner, the so-called Northern Paiute Nation, was not an aboriginal tribe or entity united in a community under one leadership or government and was therefore inherently incapable of acquiring and/or holding "original Indian Title."
2. All of the aborigines who (either allegedly or in fact) inhabited land in the claimed area were never an aboriginal tribe or entity united in a community under one leadership or government and were therefore inherently incapable of acquiring and/or holding "original Indian Title."

Second Defense

3. None of the so-called Northern Paiute bands referred to in paragraph 4(a) of the amended petition, if any ever existed, was an aboriginal entity united in a community under one leadership or government, nor did any of the so-called bands exclusively occupy a definable area.
4. If the said "bands," or any of them, ever existed and could and did acquire and hold "original Indian title" to any part of the claimed area (which respondent denies), there is no evidence that the various individual petitioners or relators include members of each of the said "bands."
5. If the said "bands," or any of them, ever existed and could and did acquire and hold "original Indian title" to any part of the claimed area (which respondent denies), such bands ceased to exist prior to the alleged "taking", and there arose predatory groups which were disassociated from land use and "ownership" and derived their principal sustenance by preying upon travelers across the claimed area and upon immigrants.[121]

The government, in an attempt to prove this defense elicited the assistance and work of Julian Steward and his culture ecology. In fact, the reliance on Steward was so overwhelming that it is often difficult to distinguish the separation between the defendant's argument and Steward's in the Defendant's Findings of Fact. Steward's work is constantly evidenced and referred to throughout the entire set of findings. It is important to note, however, that the vast majority of the evidence taken from Steward was from two then unpublished works: 'The Northern Paiute

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[121] Defendant's Requested Findings of Fact. *Northern Paiute Nation.* 1975. p.1-2.

Indians' written with Erminie Wheeler-Voegelin[122], and, 'The Great Basin Shoshonean Indians: An Example of a Family Level of Sociocultural Integration'.[123]

To give a more specific idea of exactly how cultural ecology was worked for the defense I will review the Defendant's Findings of Fact. The findings that I have chosen are the ones most pertinent to the anthropological evidence. Overall, I have tried to maintain the general arguments and the principal body of the anthropological evidence presented to the Commission.

To begin, 'Finding 3: Sources of Historical and Ethnological Information' covers a historical summary of the reported contact with the Northern Paiute. Taken directly from Julian Steward's 'The Northern Paiute Indians', Steward explains that the accounts left by the early explorers in Nevada were not enough to 'describe native culture concretely and in detail'.[124] In Oregon the accounts of the explorers were 'equally unproductive', but, resulted in 'general statements that the Indians encountered were extremely impoverished and on the whole very peaceful, although thievish and a nuisance.'[125] Steward, however, discredits the first accounts of the Indian agents because Indian life had already been disturbed and changed by this time. To elaborate, Steward says that:

> Indian agents' accounts followed white settlement when native conditions had already been disturbed. The Indian wars, which began with skirmishes in the 1850's and ended in the Bannock war of 1878, were fought largely by Paiute along the emigrant trails where native subsistence patterns were first disrupted, where the whites became objects of predatory raids, and where the United States troops and Indian agents were first brought in. Most native leaders vacillated between rallying followers to

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122 Julian Steward and Erminie Wheeler-Voegelin. 'The Northern Paiute Indians'. 1974.

123 Julian Steward. 'The Great Basin Shoshonean Indians: An Example of a Family Level of Sociocultural Integration.' 1955.

124 Defendant's Requested Findings of Fact. *Northern Paiute Nation.* 1975, p.7. Julian Steward and Erminie Wheeler-Voegelin. 'The Northern Paiute Indians'. 1974, p.10.

125 Ibid.

war upon the whites and advocating acceptance of the government's peace terms. The Indian agents' reports designated these leaders as "chiefs", but completely failed to analyze the nature of the so-called bands, and to inquire whether "chiefs" of this kind were truly aboriginal.[126]

In terms of ethnographic study, Steward mentions that this began with Robert Lowie, but, 'the nature of sociopolitical groups was not a primary interest of Lowie's investigations'[127]. The principal ethnographic texts Steward refers to, is from himself with: 'Ethnography of the Owens Valley Paiute', 1933; and, the 'Basin-Plateau Aboriginal Sociopolitical Groups' which was a more comprehensive study of the Northern Paiute in Nevada and California. Steward also mentions of Omer Stewart's first ethnographic work, published in 1939,[128] but, discredits it because although this work of Omer Stewart 'purports to be a definitive treatment of the Northern Paiute "bands" of western Nevada and eastern Oregon, but, entirely fails to describe what is meant by "bands".[129] In addition, Steward invalidates Omer Stewart's 1941 ethnographic paper called 'Culture Element Distribution, Northern Paiute: XIV' because Steward says that 'although "element lists give a general idea of the ethnography,... they not analyze land use, economic activities, and political, and religious and social patterns, so as to throw light on aboriginal 'bands'".[130]

In general, Steward's theoretical anthropology is assumed by the defendant. First presented in 'Finding 12: Economic Factors in Northern Paiute Life', the defendant repeats Steward's theory that culture is necessarily determined by the

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126 Defendant's Requested Findings of Fact. *Northern Paiute Nation.* 1975, p.8. Julian Steward and Erminie Wheeler-Voegelin. 'The Northern Paiute Indians'. 1974 pp.10-11.

127 Ibid.

128 Omer Stewart. *The Northern Paiute Bands.* 1939.

129 Defendant's Requested Findings of Fact. *Northern Paiute Nation.* 1975, p.9. Julian Steward and Erminie Wheeler-Voegelin. 'The Northern Paiute Indians'. 1974, p.12.

130 Defendant's Requested Findings of Fact. *Northern Paiute Nation.* 1975. p.10. Julian Steward and Erminie Wheeler-Voegelin. 'The Northern Paiute Indians'. 1974 p.12.

environment and the technology used for exploiting that environment. In application, this theory found that the aboriginal Northern Paiute Indians were organized at a family level of social integration because their harsh and meager environment could not support more advanced types of human organization. To illustrate, the defendant concludes in this finding that the 'early reports of anthropological studies alike confirm the Northern Paiute as poverty stricken, itinerant people, traveling in small groups, subsisting on the grudging products of a thirsty earth.'[131]

As an extension of Steward's theory, the defendant presents the case that the Northern Paiute could not have had any notions of group property. The harsh environmental conditions of that the Northern Paiute lived in confined their concepts of property to the family level. To illustrate, this perspective starts finding 12, taken directly from Steward's 'The Northern Paiute Indians' , it states:

> The existence of any kind of property rights found among any people are functions of the environment and of the technological devices for exploiting the environment. Among hunting and gathering peoples, such as the Great Basin Shoshoneans including the Northern Paiutes, resources were so meager that the overall population density was low and it was difficult for more than a few families to remain in close association for any length of time. Where the principal resources were seeds, roots, insects, reptiles and the like, interfamily cooperation in food gathering not only failed to give an advantage, but even reduced the yield per individual.[132]

In order to further demonstrate the fragmentary results of the environment on Northern Paiute society, 'Finding 13: The Role of Vegetable and Insect Foods in the Northern Paiute Pattern', presents evidence that the Northern Paiute were dependent on an unstable food resource. To begin, the defendant using Steward's

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131 Defendant's Requested Findings of Fact. *Northern Paiute Nation.* 1975, p.44.

132 Defendant's Requested Findings of Fact. *Northern Paiute Nation.* 1975, p.42. Julian Steward and Erminie Wheeler-Voegelin. 'The Northern Paiute Indians'. 1974 pp.27-28.

words establishes that 'the Great Basin was predominantly a seed area'[133] As to the unpredictably of this principle food resource, the defendant refers to Steward's testimony, 'I haven't to this day discovered why it does or doesn't, but it is unpredictable. Certain years groves of it on a particular mountain might be very abundant, and the next year it might be twenty miles away'[134] This sporadic nature of the pine nut leads the defendant to conclude, and a direct citation from Steward, that the 'habitual use and ownership of a given grove would be impossible.'[135]

In fact, the defendant found that absolutely no economic activity of the Northern Paiute led to any sort of interfamilial cooperation or organization. In 'Finding 14: The Role of Hunting in the Northern Paiute Pattern', the defendant argued that hunting could not integrate, or lead to the development of territorial land notions in Northern Paiute society. In an elaboration to this argument, this finding reads:

> Dr. Steward explains in a more detail why such collective enterprises as rabbit drives did not bring about a more permanent integration or territorial concept:
> In spite of the rather rigid direction of these drives, there were several reasons why they did not bring about permanent integration or cohesion of territorial or social groups of fixed membership. First, drives were held only when rabbits were sufficiently numerous in a particular locality. Second, participants in the drive consisted of families who, because of rather fortuitous annual occurrence of seeds and other foods in one place or another, happened to be in the locality where the drive was worth holding. Third, the drive was held only if an experienced leader and families owning nets happened to be present. Since the occurrence of these factors was rather haphazard, since the place, the participants, and the leaders were never quite the same in successive years, the drives provided only temporary bonds between independent families. A given family was under no obligation whatever to participate in a drive with a fixed group of families under a permanent leader. And, since, the "rabbit boss" held authority only during the drive, the family paid little heed to him in other times, places, and contexts.[136]

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133 Defendant's Requested Findings of Fact. *Northern Paiute Nation.* 1975, p.45. Julian Steward and Erminie Wheeler-Voegelin. 'The Northern Paiute Indians'. 1974, p.30.

134 Defendant's Requested Findings of Fact. *Northern Paiute Nation.* 1975. Julian Steward. Tr. pp.390-391.

135 Defendant's Requested Findings of Fact. *Northern Paiute Nation.* 1975, p.47. Julian Steward and Erminie Wheeler-Voegelin. 'The Northern Paiute Indians'. 1974, p.40.

136 Defendant's Requested Findings of Fact. *Northern Paiute Nation.* 1975, p.55. Julian Steward, 'The Great Basin Shoshonean Indians'. Dft Ex. 135. p.15.

Generally, the defendant found, in its anthropological interpretation, that the aboriginal Northern Paiute were not organized socially at all. To illustrate, in Finding 16: 'Subsistence and Social Units', the introductory statement, taken right from Steward says, 'the struggle for existence in the harsh Northern Paiute territory did not permit permanent association of large numbers. Vegetation was so sparse that people had to scatter in small groups during most of the year to obtain seeds and roots. Rarely were more than a half dozen families found together.'[137]

Moreover, the defendant argued that the Northern Paiute marriage system did not allow for any social integration. 'Finding 17: Marriage and the Social Unit', states families were not linked through marriage. Once again, the defendant uses Steward to sum up the finding, this time in regard to the Northern Paiute marriage custom. 'While (marriage) united strands in the netlike fabric of Shoshonean society, it could not possible consolidate or integrate local groups in a political, social or economic sense. To the contrary, it cut across local boundaries, making interfamilial ties diffuse and thus actually militating against band or community development.[138]

Religion, as well, did not serve to integrate Northern Paiute society. In 'Finding 18: Social Factors Relating to Integration', the defendant argues that in the absence of collective economic endeavors there was no need for a collective religion. Taken straight from Steward, the Defendant concludes:

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137 Defendant's Requested Findings of Fact. *Northern Paiute Nation.* 1975, pp.62-63. Julian Steward and Erminie Wheeler-Voegelin. 'The Northern Paiute Indians'. 1974, p.42.

138 Defendant's Requested Findings of Fact. *Northern Paiute Nation.* 1975, p.68. Julian Steward, 'The Great Basin Shoshonean Indians'. Dft Ex. 135. p.29.

> Among most primitive groups collective ceremonialism constitutes an important bond between members. Such ceremonialism is ordinarily dedicated to objects of group interest, such as increasing game herds or furthering crop fertility. Where, however, economic activities tend to be upon an individual rather than a group basis ceremonialism can have few collective purposes. There was thus no role for a priest or ceremonial leader among the Northern Paiute in the complete absence of collective or group ceremonialism. While in certain localities the circle dance may have had a minor supernatural significance the religious features seem to have been incidental to the recreational, and in no event do they seem to have resulted in an increased assemblage. [139]

In addition, the defendant provided evidence that aboriginal Northern Paiute society did not have law or any type of political structure. 'Finding 20: Law and Northern Paiute Society', for example, begins: 'the Northern Paiute had no law as we understand the word. It is true that they had customs, but violations of customs were not "punished" by a nonexistent community'.[140] The defendant again cites Steward's work 'The Great Basin Shoshonean Indians' to prove this.

> Disputes and hostilities arising from such matters as murder, theft, wife-stealing, and other violations of custom were settled between families. None of them was a "crime" against the community, for the community did not exist in a corporate or legal sense. Violations of customs threatened families, not the larger socially integrated units. Thus, the very concept of crime presupposes some kind of supra-family level of integration, some collectivity, which has a common purpose that must be protected against anti-social behavior by its members.[141]

In general, the defendant argued that the Northern Paiute did not have any type of political authority. The closest type, the defendant admitted, 'to such an individual was a knowledgeable person.'[142] However, the defendant cites Steward to explain that this did not mean any type of political structure: 'so far as "chief" implies permanent authority over an identifiable group, this term is a complete misnomer, for this man had no authority and served only one function.'[143]

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[139] Defendant's Requested Findings of Fact. *Northern Paiute Nation.* 1975, p.70. Julian Steward and Erminie Wheeler-Voegelin. 'The Northern Paiute Indians'. 1974, pp.50-51.

[140] Defendant's Requested Findings of Fact. *Northern Paiute Nation.* 1975, p.73.

[141] Defendant's Requested Findings of Fact. *Northern Paiute Nation.* 1975, p.74. Julian Steward, 'The Great Basin Shoshonean Indians'. Dft Ex. 135. p.22.

[142] Defendant's Requested Findings of Fact. *Northern Paiute Nation.* 1975, p.75.

[143] Defendant's Requested Findings of Fact. *Northern Paiute Nation.* 1975 p.75. Julian Steward, 'The Great Basin Shoshonean Indians'. Dft Ex. 135. p.23.

Furthermore, the Defendant presented additional evidence in 'Finding 21: Property and Territoriality' that the Northern Paiute did not have any notions of property or territory. In particular, this finding begins with the statement that 'the wandering, shifting life of the Northern Paiutes described in previous findings precluded the existence of communally-held territory and of territorial bands.'[144] Steward, cited as evidence, maintained that: 'in an area where denial of the right to use any edible product encountered was to condemn a wandering group to starvation, there could be no property right in the earth that nourished that product.'[145]

Instead, the defendant contended that the only property concept that the Northern Paiute had was more 'practical to their marginal culture'. Property consisted of something that was 'tangible' like something that could be 'held in the hand, eaten, used for fishing or for warmth'[146]. The defendant relies on Steward to explain this property concept, 'these Indians assumed that rights to exclusive use of anything resulted from work expended by particular individuals or groups from habitual use.'

The defendant's findings of fact also found that the Northern Paiute did not have any political organization necessary for warfare or defense of territory. Demonstrated in 'Finding 22: Warfare and Defense of Territory', the defendant cites directly from Steward for evidence; but, they add in the part about the sacrificial victims.

> The conditions necessary for national or tribal warfare were absent. There were no organized groups which could carry out unified military action, and there were no incentives for concentrated effort, such as defense of economically important territories, a system of war honors, or a group religion

144 Defendant's Requested Findings of Fact. *Northern Paiute Nation.* 1975, p.76.

145 Defendant's Requested Findings of Fact. *Northern Paiute Nation.* 1975, p.76. Julian Steward, 'The Great Basin Shoshonean Indians'. Dft Ex. 135. pp.11-12.

146 Defendant's Requested Findings of Fact. *Northern Paiute Nation.* 1975, p.76.

requiring sacrificial victims. When war parties of neighboring people peoples invaded, the Northern Paiute ran away more often than they fought.[147]

In 'Finding 26: The Northern Paiute Not a Tribe or Nation' the opening statement provides a good summary as to what the defendant was trying to prove. The finding begins:

Previous findings have shown that (1) there were substantial cultural differences among the various Northern Paiute areas; (2) even the denizens of neighboring areas did not consider themselves as one people; (3) there was no awareness of the extent of the territory they lived in; (4) they did not unite in war or in defense of their territory; (5) there was no chief or organization of the whole territory nor were there mutual consultations; (6) they did not as a unit participate in any cooperative endeavors; (7) nor, with certain exceptions, did they regard the land over which they roamed as theirs.[148]

Steward, in this introduction was additionally referenced in a footnote, for the second, number (2), of these conclusions with his statement that, 'at most, "tribe" or "nation" could not imply that the Northern Paiute as a whole had a consciousness of kind among themselves as against all other people. Such consciousness did not exist in aboriginal times and it is doubtful that it exists today'[149] As well, Steward is evidenced, further along in this finding, for the generalization that 'there are few native people in the world who were so unorganized as the Northern Paiute.'[150] In fact, this finding concludes with Steward's words where he maintains that there is 'no sense in which it is admissible to refer to the Northern Paiute as a "tribe"'[151]

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147 Defendant's Requested Findings of Fact. *Northern Paiute Nation.* 1975, p.81. Julian Steward, 'The Great Basin Shoshonean Indians'. Dft Ex. 135. p.18.

148 Defendant's Requested Findings of Fact. *Northern Paiute Nation.* 1975, pp.99-100.

149 Defendant's Requested Findings of Fact. *Northern Paiute Nation.* 1975, p.99. Julian Steward and Erminie Wheeler-Voegelin. 'The Northern Paiute Indians'. 1974. p.21.

150 Defendant's Requested Findings of Fact. *Northern Paiute Nation.* 1975, p.100. Julian Steward and Erminie Wheeler-Voegelin. 'The Northern Paiute Indians'. 1974, p.305.

151 Defendant's Requested Findings of Fact. *Northern Paiute Nation.* 1975, p.102. Julian Steward and Erminie Wheeler-Voegelin. 'The Northern Paiute Indians'. 1974, p.17.

In 'Finding 31: The Nature of Predatory Bands', the defendant begins with the statement that, in regards to the aboriginal condition of the Northern Paiute, 'it has been established that at the time the United States gained sovereignty over the area claimed by the petitioners, there was neither a Northern Paiute Nation, capable of holding Indian title, nor a conglomerate of land-holding bands in the same area.'[152] However, as the defendant continues, after the United States took dominion of this area 'the condition and mode of life of the Northern Paiute began to change drastically'.[153] The defendant explains, taken directly from Steward, 'white migration and settlement had a cumulative effect on the native way of life, beginning about 1845, and within about tens years producing predatory bands, a wholly new institution among the Indians. Destruction of native vegetable foods, which had been the principle subsistence, the gradual acquisition of horses, the presence of white immigrant trains and livestock herds which could be raided, a possession of firearms introduced new economic and military patterns.'[154] The defendant, to elaborate, again cites Steward directly:

> Predatory or raiding warfare against the whites, however, required massing and mobility of forces which would have been impossible on foot. The horse met this need. It also required organization of members far larger than could be acted in concert in the native times of dispersed population. The rise of individual leaders, or "chiefs", met this need. These new bands and chiefs were thus phenomena wholly and completely different from anything known in pre-white days. They were predatory, military, and mounted.[155]

With this new economic source the Northern Paiute social and political organization changed. Although these new bands were more socially developed, the membership was not fixed nor was there any sort of centralized authority.

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152 Defendant's Requested Findings of Fact. *Northern Paiute Nation.* 1975, p.230.

153 Ibid.

154 Defendant's Requested Findings of Fact. *Northern Paiute Nation.* 1975, p.230. Julian Steward and Erminie Wheeler-Voegelin. 'The Northern Paiute Indians'. 1974, pp.294-295.

155 Defendant's Requested Findings of Fact. *Northern Paiute Nation.* 1975, p.231. Julian Steward and Erminie Wheeler-Voegelin. 'The Northern Paiute Indians'. 1974, p.295.

Based on the data presented the defendant states that 'the following conclusions, well set forth by Dr. Julian Steward, may be drawn:'

...it is difficult to picture Northern Paiute predatory bands as large hordes of permanent and well-organized members, who moved about... under leaders of great authority. Instead, the rather miscellaneous detail from which we endeavor to reconstruct a picture of the character of these groups strongly suggest that the Paiute bands were fairly ad hoc and temporary aggregates, even at the time of their greatest development. Whether upon encountering whites they raided or fled depended upon their strength as compared with that of the whites. Most of the Indian-white hostilities seem to have involved small groups, and minor skirmishes, initiated by those having apparent advantage.[156]

The defendant therefore concludes that these predatory bands were not eligible for title because they did not have fixed membership nor a definable territory. In conclusion, the Defendant states:

These wandering, impermanent and transitory groups, who arose quickly and flourished for only a comparatively few years after the United States acquired sovereignty of the territory in which the Northern Paiute had lived aboriginally, could not so exclusively have used, claimed or occupied the land for their subsistence as to have acquired Indian title during that period. Acting as predatory bands, the Northern Paiutes did not live by means of the land, but only upon it, just as a highwayman does not on or own the road over which his potential victims travel. When not warring or raiding, the Northern Paiute bands dispersed. and the individuals formerly comprising them went their single, individual ways to forage in primitive, unorganized and unterritorialized family groups.[157]

Just to ensure the defendant's position, that the Northern Paiute were not eligible for Indian title, the defendant tries to demonstrate that the Northern Paiute abandoned their old way of life. Found in 'Finding 40: The Northern Paiutes Abandon Their Old Life', the defense to begin provides a summary of the general argument.

With the coming of the white man, however, a new mode of life opened up to the Northern Paiute. He acquired the horse, the gun, and a new source of food that was not indigenous to his soil. He took the traveler's cattle and the supplies brought laboriously across the country. The Northern Paiute became a predator, relying upon raids for a major part of his sustenance. To the extent, at least, that this source of supply supplemented his old precarious gathering, he abandoned his former way of life. The

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156 Defendant's Requested Findings of Fact. *Northern Paiute Nation.* 1975, p.236. Julian Steward and Erminie Wheeler-Voegelin. 'The Northern Paiute Indians'. 1974, p.241.

157 Defendant's Requested Findings of Fact. *Northern Paiute Nation.* 1975, p.237.

terrain over which he pursued the migrants was no longer a place to hunt and fish, but a highway upon which to ply his new trade, and he abandoned it to this mode of existence.[158]

The Defense cites Steward for a possible anthropological explanation as to why the Northern Paiute might abandon their mode of life, and, congregate to the towns. In drawing on the concept of a family level of sociocultural integration Steward explains that 'an important factor in this assimilation (J.H. Steward, 1951) is that the very absence of band, village, or tribal organization has enabled them to adapt to contemporary life as families and individuals and not as units.'[159]

The next major anthropological reference presented by the defendant is found in the Defendant's Objections to Petitioners' Findings of Fact: Finding 15, an attachment to the Defendant's Proposed Findings of Fact. In discussing an objection to the Petitioner's assumption that Northern Paiute bands existed the defendant references Julian Steward's challenge to Omer Stewart. They explain:

Defendant objects to petitioners' indiscriminant and fundamentally erroneous use of the word "band." They and their principal witness, Dr. Omer Stewart, have tacitly and uncritically assumed the existence of bands among the Northern Paiute without qualification. In this connection Dr. Julian Steward has said: "The term 'band' is only a little less vague than 'tribe'. One might suppose that anthropological use of this term implies some theoretical concept of unification of local people, such as territoriality, habitual association of families in community endeavors, and recognized forms of leadership or 'chieftainship' over a designated and defined section of the population. Unfortunately, there has been a certain amount of irresponsibility in this respect. It is surprising that O. C. Stewart (1939) seemed to consider that it was sufficient merely to ask Northern Paiute informants the names of 'bands' and 'chiefs' and the territory each inhabited without analytic inquiry into the meaning of 'bands' either as a integrated social groups or as phenomena in historic change.[160]

In response, to these arguments put forth by the defendant the petitioner's filed the 'Petitioner's Objections to Defendant's Findings of Fact'. In the first section, which

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158 Defendant's Requested Findings of Fact. *Northern Paiute Nation.* 1975, p.292.

159 Defendant's Requested Findings of Fact. *Northern Paiute Nation.* 1975, p.296. Julian Steward and Erminie Wheeler-Voegelin. 'The Northern Paiute Indians'. 1974, p.307.

160 Defendant's Requested Findings of Fact. *Northern Paiute Nation.* 1975, p.307.

the petitioners call the General Objections, the petitioners direct their concerns and criticisms to the two unpublished works of Julian Steward. In particular, they question Steward's theoretical anthropology with the assumption that the Northern Paiute were at a family level of sociocultural integration. In addition, the petitioners suggest that Steward suited his evidence to the arguments of the defense, To begin, in a long citation, the Petitioners state their General Objections:

> The petitioners have observed that a large part of their objections to defendant's requested findings result from the use that the defendant has made of two writings by Dr. Julian Steward. Large portions of the defendant's requested findings have been lifted verbatim, or nearly verbatim, from one or the other of these two writings. The first is an unpublished paper written by Dr. Julian Steward after his employment to testify for the Government in the Uintah Ute and other Indian cases. The paper is entitled "The Great Basin Shoshoneans Indians: An Example of Family Level of Sociocultural Integration", Defendant's exhibit 135. It is apparently based upon a kind of synthesis of Dr. Julian Steward's studies of Ute, Western Shoshoni, and the Northern Paiute Indians. In this paper, Dr. Steward describes certain culture traits which illustrate his thesis, "a family level of sociocultural integration." For the most part, Dr. Steward accomplishes this illustration of his thesis by elaborating and exaggerating certain features of culture that he found to have existed among some Shoshonean-speaking Indians. Dr. Steward's paper is far more concerned with creating the concept of a "family level of sociocultural integration" than it is with describing the known facts in respect to the way of life of any particular Shoshonean-speaking Indians. The evidence in respect to the Northern Paiute way of life does not support the conclusion that these culture traits that make up Dr. Steward's "family level of sociocultural integration" were the dominant culture traits of the Northern Paiute Indians. The Commission was presented with the same kind of theoretical anthropology in the Uintah Ute Indians of Utah v. The United States, Docket No. 44. In that case, Dr. Steward testifying for the Government sought to attach his concept of "family level of sociocultural integration" to the Uintah Ute Indians and the Commission found that the evidence before it on the way of life of the Uintah Utes did not support Dr. Steward's theory. 5 Ind. Cl. Comm. 1. Similarly, the evidence now before the Commission has established that Dr. Steward's theory is not descriptive of the Northern Paiute Indians' way of life. Accordingly, the great numbers of findings and conclusions that the defendant has lifted from Dr. Steward's paper on a "family level of sociocultural integration" are objectionable because not based upon, or supported by, the evidence in this case nor by the way of life of the Northern Paiute Indians.
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> The second of these writings by Dr. Steward, from which the defendant has taken large numbers of its requested findings, is the report on the Northern Paiute Indians prepared for the defense of this case, Defendant's Exhibit 136. In this report, Dr. Steward displayed an obsession for developing arguments by which he believed the Northern Paiute Indians' claims to Indian
> title to land might be defeated. This obsession made it impossible for him to state even the simplest evidentiary facts without lending those facts some added color to flavor his arguments for the Government's defense. Frequently, to bolster his arguments, his conclusions were rested upon only snatches of evidence while other evidence Dr. Steward would disregard or distort to remove any conflict with the conclusion he sought to draw. In style of writing, the report says far more by implication than by direct statement. The report contains very little that is simply description of the evidence. It contains a great deal that shapes and interprets the evidence to suit the theories of the case advanced by Dr. Steward. Moreover, the report was prepared before the trial and without use of much of the evidence presented by the petitioners. Finally, although Dr. Steward was no doubt briefed on the law and the issues which the Government desired to establish by the evidence. Dr. Steward is an anthropologist and not a lawyer and in his advocacy of the Government's case he labored many findings and conclusions totally immaterial to the issues at trial. Accordingly, the great quantity of

the defendant's findings that area lifted from this report are objectionable because not supported by the evidence or not material, or both.[161]

In a more specific manner, the petitioners discuss their objections to each of the defendant's findings. For example, in response to defendant's 'Finding 3: Sources of Historical and Ethnological Information', the petitioners disagree with Steward's conclusions about the ethnohistorical sources. Instead, the petitioners argue that the reports of the early explorers, Indian agents, and even Steward's early ethnographic works should be considered as evidence because they reflect a consistent picture of aboriginal Northern Paiute life. The petitioners only object to Steward's unpublished works. To elaborate, the petitioners state:

This finding contains conclusions that are not supported by the evidence. Contrary to this finding, the early reports of fur traders and explorers do contain consistent and informative descriptions of the Indians in the Northern Paiute area. See petitioners' proposed finding 23. Contrary to this finding, the earliest accounts of Indian agents and United States officers were made prior to and contemporaneous with early settlement and contain descriptive and informative evidence on the Indians in these early days. See petitioners' proposed findings 24 and 25. Contrary to this finding, the ethnographic studies made by the professionals who have worked with Northern Paiute Indians, including the studies made by Dr. Steward before his employment to assist in the defense against Indian claims, contain material descriptive of the way of life of the Northern Paiute Indians, which is both informative and remarkably consistent. The only professional writings on the way of life of the Northern Paiute Indians which are not consistent with other writings are the two recent writings by Dr. Julian Steward, Defendant's Exhibits 135 and 136. See Petitioners' proposed finding 17.[162]

In reply to 'Finding 9: The Northern Paiute Area Becomes a Part of the United States' the petitioners object to the defendant's argument that 'the evidence contained in reports dated after 1848 has little probative value to show how the Northern Paiute Indians lived before 1848, and in particular that Indian agent's reports after 1848 describing bands and chiefs among the Northern Paiute Indians are not evidence that any bands or chiefs had ever existed before 1848.[163]

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161 Petitioners' Objections to Defendant's Requested Findings of Fact. 1975, pp.5-7.
162 Ibid. p.10
163 Ibid. p.14.

Instead, the petitioners maintain the validity of the reports of the Indian agents and they suggest that the evidence does not support a complete break in Northern Paiute culture in 1848. To be more specific, the petitioners state:

> This is a deduction not supported in the evidence. The more reasonable deduction, and the deduction that is supported by the evidence, is that the bands and chiefs that existed after 1848 were the products of earlier political and social structures in the Northern Paiute way of life. The development of these political and social organizations has been shown to have been accelerated by the advent of the white man and by increased use of the horse. However, there is no basis in the record for finding in and about 1848 any such clean and complete break with the past as is pictured in this finding. The petitioners have described the development of bands and chiefs in petitioners' proposed finding 16.[164]

In 'Finding 12: Economic Factors in Northern Paiute Life', the petitioners object to Steward's anthropological proposition that 'the existence of any kind of property rights found among any people are functions of the environment and of the technological devices for exploiting the environment.' In contrast, the petitioners argue that this 'anthropological proposition or definition could not conceivably be established by the evidence in this proceeding and which in any event, is totally irrelevant to the issues at trial.[165] The petitioner's conclude, 'the finding exaggerates the poverty and aloneness of the Northern Paiute family far beyond that evidenced in the record.'[166]

Again, in 'Finding 13: The Role of Vegetable and Insect Food in the Northern Paiute Pattern', the petitioners object fundamentally to the 'theoretical proposition' held by the defendant that the Northern Paiute Indians were 'necessarily nomadic, living in small groups.'[167] In addition, the petitioners argue that the defendant exaggerates 'the role of those Northern Paiute vegetable and insect food products which caused the Indians at certain seasons to scatter far and wide in small family

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164 Ibid.
165 Ibid. p.16.
166 Ibid.
167 Ibid.

groups and to minimize the role of other of other vegetable and insect foods which brought the Indians to congregate together at others seasons in areas of specialized productivity.'[168] Instead, the petitioners state that the evidence presented in their findings supports the fact that 'both roles were important to the Northern Paiute subsistence pattern and to their social and community way of life.[169]

Moreover, the petitioners argue that this finding exaggerates Steward's concept of family level of sociocultural integration. This concept, the petitioners argue, is contradictory with other people who have studied the Northern Paiute, and, with Steward's own published works. All of these works have shown that social and community organizations are more highly developed. To explain, the petitioners say that:

> This finding also exaggerates the differences in subsistence pattern and social and community structure between the Northern Paiute Indians studied by Dr. Julian Steward and those studied by Dr. Kelly, Dr. Whiting, Dr. Park, and Dr. Stewart. Dr. Steward has shown in published reports that the Northern Paiute Indians studied by him had subsistence patterns and social and community organizations more highly developed than his theoretical concept of "family level of sociocultural integration." Likewise, the published studies of other anthropologists have indicated that Dr. Steward's theory of a "family level of sociocultural integration" is equally inapplicable to the Northern Paiute studied by them. Nevertheless Dr. Steward and the defendant throughout this proceeding have bent their every effort to shape the evidence to fit Dr. Steward's "family level" concept of a nomadic, desert primitive society.[170]

In addition, the petitioners point out in 'Finding 14: The Role of Hunting in the Northern Paiute Pattern' that all of these professionals (Steward, Kelly, Whiting, Park, Stewart) who have studied the Northern Paiute have 'noted localized bands, villages, or other groups'.[171] 'Accordingly, the deduction asserted in this finding

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168 Ibid. p.16-17.
169 Ibid. p.17.
170 Ibid.
171 Ibid. p.18.

that these communal hunting activities were the momentary congregations of unrelated Indians, none of whom had any attachment in any permanent sense to the particular area of the activity, , is overwhelmingly contradicted by the evidence. Dr. Steward's own studies of the Northern Paiute in Owens Valley, and in Deep Springs and Fish Lake Valleys, fail to support this deduction, just as do the studies of his fellow anthropologists in other parts of the Northern Paiute area.'[172]

The petitioners in 'Finding 16: Subsistence and Social Units' agree with the finding that the Northern Paiute Indians 'scattered in small groups to obtain seeds and roots'[173]. However, the petitioners state that they disagree that this scattering implies no customary associations with other families. The petitioners begin:

> ...the finding asserts also that no group, be it called a band, tribe, or village, which customary exploited a certain region, existed on any kind of permanent basis, meaning existed with the same individual's and families comprising the largest membership, year after year. This assertion is not only not supported by the evidence but is contradicted by the ethnographers, Indian agents, and early explorers who left evidence as to how the Northern Paiutes lived and associated together in groups that typically took their name from the principal food of their region. The character of these bands or community groups and of their occupancy of the Northern Paiute area is shown in petitioners' proposed findings 15 and 18.[174]

In 'Finding 18: Social Factors Relating to Integration', the petitioners object to the theoretical conclusions of this finding that the Northern Paiute did not have any type of collective religion or ceremonialism. Given the incomplete record in this regard, the petitioners disagree with the anthropological theory that since the Northern Paiute were only integrated economically at the family level they did not have or need any collective religious or ceremonial organization. To the contrary, the petitioners suggest that even though the record is incomplete it seems to indicate that the Northern Paiute did have religious and ceremonial aspects that

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172 Ibid.
173 Ibid. p.20.
174 Ibid.

were associated with hunting and food gathering. Specifically, the petitioners assert that:

> This finding consists largely of immaterial and unsupported deductions and anthropological theorems in respect to the relationship between the purely social and religious ceremonies of a people and their food gathering practices. The record contains incomplete evidence in respect to the purely religious and social ceremonies of the Northern Paiute Indians. These purely religious and social ceremonies have little direct relevance to the manner by which these Indians used and occupied their land. The record, however, does contain some accounts of the ceremonial activities of the Northern Paiute Indians, particularly those ceremonies which were connected with community hunts and food gathering. This evidence stands in sharp contradiction to the defendant's finding that among the Northern Paiute Indians there was "a complete absence of collective or group ceremonialism." This finding is patently an argument expressive of the reasoning whereby Dr. Steward concluded that, among the Northern Paiute Indians, there could not be, regardless of the evidence to the contrary, a "definable socio-political group with delimited territory."[175]

In 'Finding 20: Law and Northern Paiute Society' where the defendant presents evidence that the Northern Paiute did not have any form of law or have any type of political leadership the petitioners object. In particular, they say that this finding is 'objectionable for being both unclear and also for submerging the unmistakable fact that every ethnographer who has studied the Northern Paiute and published work on these Indians has described bands, villages, or other community groups and has described headmen or chiefs.[176]

In response to the defendant's conclusions that the Northern Paiute did not have any notions of collective property or territory, in 'Finding 21: Property and Territoriality', the petitioners filed an alternate finding. Specifically, they challenge Steward's theory that in such a harsh environment property rights 'would condemn a wandering group to starvation'. Instead of confining the property and territoriality of the Northern Paiute to the family level of integration, the petitioners argue that the defendant ignores the community organization of the Northern

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[175] Ibid. p.21-22.
[176] Ibid. p.23.

Paiute and the customary use and a sense of occupancy of the land; and, that the defendant exaggerates the migratory character of the Northern Paiute. In particular, the petitioners filed:

> This finding states the theories of property and territoriality which Dr. Steward has developed to illustrate his concept of a "family level of sociocultural integration." The application of these theories to the Northern Paiute is not supported by the evidence. The evidence establishes that the Northern Paiute Indians had bands or community groups, had areas within which they customarily obtained their living, and a sense of occupancy of their country in substantially greater degree than would be consistent with Dr. Steward's theories or with the statements made in this finding. The finding exaggerates the migratory character of the Northern Paiute subsistence pattern, ignores the band or community structure of Northern Paiute culture, and describes individual use of, or claims to property, as though these individual uses and claims excluded uses and claims of the Northern Paiute, all without support in the evidence. The facts material to describing the character of Northern Paiute use of their land are set forth in Petitioners' proposed finding 17.[177]

In regards to 'Finding 22: Warfare and Defense of Territory', the petitioners objected fundamentally to the assumption by the defendant that warfare was actually divisive among the Northern Paiute and that they did not unite to defend their territory. To the contrary, the petitioners found that warfare was a uniting factor among the Northern Paiute which is evidenced after their lands were threatened by the encroachment of the white man. The objection reads:

> This finding, however, states also that "warfare" was divisive, not an integrating, force among the Northern Paiute Indians. This is not supported by the evidence. To the contrary, there is abundant evidence that aggression into Northern Paiute area, when it came about through the advent of the white man, and accompanying "warfare", was an integrating force. The councils of Northern Paiute Indians that occurred during these crisis, first in Nevada and later in Oregon, were, so far as the record shows, the earliest and largest unified meetings of Northern Paiute Indians and leaders in historic time. Also, there is no evidence that warfare ever occurred between Northern Paiute Indians. See petitioners' proposed findings 16 (footnote 12), 33, 36 and 37.[178]

In 'Finding 26: The Northern Paiute Not a Tribe or Nation', the petitioners, in contradiction to the defendant, find that the Northern Paiute were a nation. The petitioners point out that the Northern Paiute saw themselves and their neighbors

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177 Ibid.

178 Ibid. p.24.

as culturally distinct; and, that they united together as one group in order to defend their lands against the white man. The petitioners state:

> Culture differences among the Northern Paiute Indians are subordinate to the predominant culture uniformity. See petitioners' proposed finding 8. the Northern Paiute had a name for themselves, "Nomo", whereby they distinguished themselves from all other foreign and outside peoples. The outer boundaries of the Northern Paiute area, with only minor exceptions, were distinct and known both to the Northern Paiute and their neighbors. See petitioners' proposed findings 38, 39, 40, 41. In historic times, the only occasion presented to the Northern Paiute to unite in defense of their land was that of the arrival of the white man. This occasion resulted in a number of instances of widespread common defense of their land. See petitioners' proposed findings 33, 34, 35, 36. The skirmishes and the councils brought about by the coming of the white man demonstrated beyond any reasonable doubt that Northern Paiute Indians had a similar attitude toward their possession of their lands as has been found by this Commission to have existed among other Indian groups.[179]

In 'Finding 31: The Nature of Predatory Bands', the petitioners state that they completely disagree with Steward's concept of predatory bands. The petitioners say that it is an unfounded concept that is based strictly on the imagination of Steward. Moreover, the concept of predatory bands places moral judgment on the Northern Paiute and not the whites for their aggressive encroachment into their territory. In addition, Steward's concept ignores the continuity of Northern Paiute culture and the attachments the Northern Paiute had to their home land. More specifically, in:

> This finding and the concept of "predatory bands" derives from Dr. Steward's interpretation of historic records. It is an interpretation in large part erected out of Dr. Steward's imagination. More than anything else, it evidences Dr. Steward's zeal for winning the case for the defendant. It places moral judgment against the "predatory" Indians by disregarding the "predatory" character of white man's encroachment into country being used and occupied by the Indians. It submerges the traditions and culture of the Northern Paiute by picturing the leaders and groups that participated in the events that accompanied the movement of the whites into Northern Paiute country as leaders and groups that bore no relation to the past and that neither represented nor succeeded to any of the customs or rights of the Northern Paiute Indians. It seems that in these years of struggle against the arrival of the white man, the attachments of the Northern Paiute Indians to their homelands were somehow dispersed and dissipated, whereas the great weight of evidence shows that in these years these attachments of the Northern Paiute groups and leaders to the region that each considered home ground were, if anything, heightened and made specific and vocal. The "predatory bands", as described in this and the following findings, is a concept that is not supported by the evidence, nor is it material to any issue at trial.[180]

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179 Ibid. p.28.

180 Ibid. pp.30-31.

In 'Finding 40: The Northern Paiute Abandon Their Old Life' the petitioners suggest that this finding is not supported by the evidence. Specifically, they argue that the congregation of Northern Paiute Indians to the early settlements does not prove abandonment. 'To the contrary, the existence of these early settlements and towns is evidence that the United States did take Indian title, and the present day persistence of certain Northern Paiute Indians in their old life is evidence that these Indians did not abandon their use and occupancy of their country.'[181]

In response to the defendant's brief the petitioners file a 'Reply to Defendant's Brief'. Here the petitioners present one last argument against the bulk of the anthropological evidence provided by Steward. Ultimately, the petitioners say that Steward's theoretical anthropology is not supported by the evidence. The petitioners state:

> The defendant's argument in respect to the lack of an appropriate entity and political structure in the Northern Paiute Nation is achieved by interpreting the facts in a manner not supported by the evidence. Dr. Steward has made an interpretation to describe a theoretical way of life of a primitive nomadic people living in a desert waste. His interpretation does not jibe with proven facts about the life of the Northern Paiute Indians. The Northern Paiute Indians have been shown to have a kinship, a group entity, group structures, and group leaders comparable to other Indian entities that have been found to have Indian title.[182]

Contrary to the picture of the Northern Paiute that was provided by the defendant, the petitioners suggest that the Northern Paiute must be considered as a distinct nation. The Northern Paiute were linked together through ties of marriage, resource use, culture, and land tenure. The petitioners summarize aboriginal Northern Paiute society from their perspective.

> The evidence has shown each localized Northern Paiute Indian group to have linked to all its neighboring localized Northern Paiute Indian groups by ties of kinship through the practice of exogamy, by ties of interrelated membership through the freedom of movement from group to group, by ties of culture and oneness as a people through sharing in the use of the same social practices, the same language, the same name for themselves, and, most significant for the purposes of this

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[181] Ibid. p.33.
[182] Ibid. p.38.

proceeding, by ties arising from use of the same areas of land. The evidence accordingly, makes clear that Indian title to the Northern Paiute area lay in the Northern Paiute Nation, being a distinct ethnic group bound together by an unbroken chain of community group interrelationships and interrelated leaders.[183]

Based on all of the evidence presented, the 'Opinion of the Commission', decided on March 24, 1959, stated that, 'the Commission believes that there were within the territory claimed in this case, in aboriginal days, certain Indians who, as described by the early explorers and settlers, the government officials, and anthropologists, possessed certain distinct similarities. Notably the Indians of the area spoke the same language, shared a common economic life, and, in general, had a similar Indian culture.'[184] Consequently, the Commission 'concluded that the Northern Paiute Indians are a clearly defined group of American Indians within the meaning of the term "identifiable group" as used under sections 2 and 10 of the Act and, accordingly, this Commission has jurisdiction to hear and determine the claims brought by members of such groups on behalf of all its members.[185]

To begin a discussion on Julian Steward's participation in the Indian Claims Commission cases I will start by looking at what he said. As mentioned previously, Steward first discussed the role of anthropology at the claims in a paper he presented to the 1954 Detroit symposium called 'Theory and Application in a Social Science', published in 1955. Specifically, Steward introduces this topic by stating that the major differences of opinion that arose from the use of anthropology at these claims was either definitional or conceptual. Although, Steward mentions that 'it is possible that sentiment may motivate a witness to

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183 Ibid.

184 Commission Findings on the Paiute Indians. *Paiute Indians V.* New York: Garland Publishing Inc.. 1975 [1959], pp.386-387.

185 Ibid. p.388.

help the Indians, that loyalty to the litigant who pays the fee is sometimes a factor, or that a witness may merely want to have his side win. I would like to think, however, that when an anthropologist takes the witness stand, he swears that his testimony is "the whole truth and nothing but the truth" in a literal and scientific sense.'[186]

In Steward's mind, the first challenge to anthropology that was brought out by the claims 'lies in the fact that anthropology and law have difficulty finding common ground in the use of basic concepts and terms.'[187] Steward suggests that the appropriated legal concepts that need further elaboration in anthropology are terms such as "band," "nation," "chief," "property", and, even though these concepts will differ in each culture context Steward says that anthropologists have 'tended to ascribe to these terms fixed meaning in their analyses of aboriginal Indian societies.'[188] The principal example Steward uses to demonstrate this lack of anthropological definition, or assumed universality, is with the concept of property. In particular, Steward states that:

> A striking illustration of the difficulty is afforded by the disagreements involved in the concept of property. The question is not merely whether an identifiable group or society occupied and maintained exclusive use of a delimitable territory. Property in the modern United States has several characteristics. It implies exclusive rights to the land and what is under it and on it, no matter whether the owner uses these things or even resides on the land. Property rights are validated by transferable title, which is registered with and protected by a higher authority, or state, which has an appropriate system of property laws. Certainly no one would argue that the aboriginal Indians attached any of these features to their concept of property, despite such common and bare assertions in the ethnographic monographs as that the "band owned the land up to certain clearly defined boundaries." Occasional skirmishes against alien groups can by no means be taken as evidence that a society has mobilized in defense of territory per se or even of resources on it. The plain fact is that anthropology has failed to come to grips with this crucially important problem of "property" in detail and concreteness.[189]

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[186] Steward. 'Theory and Application in a Social Science.' 1955, p.292.
[187] Ibid. pp.292-293.
[188] Ibid. p.293.
[189] Ibid.

The second challenge of the claims to anthropology, according to Steward, arises from 'questions as to whether certain socio-economic features, leadership patterns, kinds of territoriality, and so forth were aboriginal or post-white.'[190] Steward, to explain, refers to the two views of acculturation that were brought out in the Northern Paiute case. In particular, Steward criticizes Omer Stewart for assuming that the bands mentioned in the early reports were aboriginal in existence. Steward, on the other hand, interpreted that these band's only emerged after the Northern Paiute had acquired the horse. To elaborate, Steward says:

> An important difference between witnesses concerning the nature of acculturation can be illustrated by the Northern Paiute case. Omer C. Stewart, witness for the Plaintiffs, assumed that territorial "bands" and "chiefs" mentioned by recent informants and by certain early observers were aboriginal features which continued to exist long after White occupation of the area. I, representing the Government, interpreted the same evidence as indicating that after horses were acquired predatory groups developed and lasted only during a brief phase of acculturation, when the native economy was changed by the presence of livestock and other foods that could be acquired during raiding. These bands had limited cohesion and transient membership, and they operated under "chiefs" whose function was to lead these forays. None of these functions had an aboriginal basis. The Northern Paiute case also illustrated the hopeless inadequacy of using "nation," tribe," "band" and "chief" to convey any precise meaning.[191]

Steward explains that, with the other view of acculturation, 'if attention is focused upon the survival of Indian features or particular cultural practices, it is easy to underestimate the extent to which White influence has directly or indirectly modified native society.[192] Instead, Steward recommends an alternative approach to viewing acculturation, which he calls developmental or evolutionary. This approach, Steward says, recognizes that:

> ...even limited contacts with Europeans and American Whites may affect Indian society in a very fundamental sense. The question is not simply one of the duration and intensity of European contacts with Indians. It is one of precisely what influences stem from national-level, Euro-American economic, religious, political, military and other institutions and of whether the Indians have had face-to-face contacts with particular sub-cultural groups of Whites. The effects of the special acculturating influences frequently begin while the Indians are still independent and before they have

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190 Ibid. p.295.
191 Ibid. p.298.
192 Ibid. p.296.

had any extensive personal contacts with Whites; and yet they may bring about profound alteration in the aboriginal society.[193]

As an extension of this alternative view of acculturation, Steward, therefore, maintains that aboriginal Indian society cannot be reconstructed by contemporary aboriginal informants. In general, Steward says that reconstructing aboriginal society is difficult because 'these cases seldom deal with primary evidence, that is, raw data that can be perceived by the physical senses and that have measurable and indisputable characteristics.'[194] In fact, Steward questions the foundation and validity of the majority of the works in American ethnology, 'a surprising amount of reconstruction of aboriginal culture has been based upon the knowledge of informants who are at least three or four generations and a hundred years or more from native times.[195]

In the conclusion to this paper, Steward suggests that these differences of opinion and interpretation by opposing anthropologists in the claims cases are not good because anthropology is discredited as a science. In addition, Steward defends himself to criticism of his integrity by saying that he did not manipulate the anthropological evidence in order to win his case. In his words:

If anthropology is to maintain a scientific standing in these cases it must recognize that it would be truly embarrassing were persons holding identical theoretical views to interpret the same body of evidence in opposite because they happened to be witnesses for opposing sides in a particular case. Sympathy for the Indians or the taxpayer, monetary considerations, and other factors perhaps subtly influence the witness, but I would like to think that they are insignificant, that the cynical statement made to me by one of the lawyers for a Plaintiff that "of course witnesses suppressed, twisted, and misinterpreted evidence in order to win their cases" is not true. I would like to think that my colleagues do not hold with the allegation made by counsel by the Plaintiffs in two cases that my very credibility and my honesty were in question. The personal unpleasantness does not matter. What is crucially important is that the failure to clarify reasons for disagreement between witnesses- and in some cases to show that there is really very little disagreement- discredits Anthropology as a science,

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193 Ibid.

194 Ibid. p.295.

195 Ibid. p.296.

confuses anthropologists themselves, and must certainly leave the Commission in great doubt as to what the truth is.[196]

Steward's next major discussion of the Indian Claims Commission cases comes in one of the last articles he ever wrote entitled 'The Foundations of Basin-Plateau Shoshonean Society', published with a collection of essays in 1970. In this article, although he still concludes the Shoshonean Indians were an example of a proto-band type, Steward maintains that the disagreements and differences of interpretation that developed in the claims cases were fundamental to the discipline of anthropology. Specifically, Steward suggested that the controversial interpretations were a reflection of the different approaches to anthropological inquiry; that is, a difference of beginning a cultural analysis from the largest units as opposed to beginning analysis from the smallest units. Steward states:

While anthropologists necessarily became adversaries in the Claims cases, it has been pointed out that the plaintiffs and defendants tended to enlist expert witnesses whose view supported their positions. In the case of the Shoshonean groups, as I shall show, the disagreements are implicit in the history of anthropology. On the one hand, there is a traditional tendency to begin analysis with the largest units- the "tribes" and "bands"- and to accept the presuppositions that they own and defend territory, have cohesion based on common interests and identification, and submit to an overall chief. Since bands are assumed to exist among all hunting and gathering peoples, their presence among the aboriginal, foot Shoshoneans has not been questioned. Mounted bison-hunting Ute bands and warring Northern Paiute bands are not distinguished from alleged aboriginal, pre-horse bands. The smaller components of these bands are accorded little attention.[197]

After this first sentence, of the above citation, where Steward cites the allegation that the 'defendant had tended to enlist expert witnesses whose view supported their positions', Steward had attached a special footnote. Again, Steward addresses criticisms that he was bought off and that his anthropological evidence was altered for the defendant's position. Steward says that:

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196 Ibid. p.302.

197 Steward. 'The Foundations of Basin-Plateau Shoshonean Society.' 1970, p. 113.

The very serious charge has sometimes been made that the witnesses altered their views at the request of the attorneys- in blunt terms, that we were bought. O.C. Stewart's unfortunate statement (1966, p.203) concerning "the attempt by the Department of Justice to avoid payments" to the Indians and his implications that the anthropologists' views concerning "tribal lands held long before the Indian Claims Commission cases" were altered must be categorically denied. It must be remembered that attorneys for the plaintiffs received a percentage of the settlement as their fee, while attorneys for the defendants worked on a fixed salary. In my own experience, the Department of Justice asked only that I present and interpret the facts according to my own understandings. Differences between anthropologists were very real in some cases, and I would prefer to view them as matters of scientific fact and theory. There is no question, however, that attempts to discuss scientific propositions which have been forced into terms of American legal principles and to have discourse between scientists mediated through attorneys badly clouded the areas of genuine scientific disagreement. The lack of direct discussion between anthropologists tended to exaggerate and entrench some long standing anthropological presuppositions, which I shall discuss here.[198]

I will now cite the quotation of Omer Stewart that Steward was reacting to in this paper. Overall, this quote provides a good summary of the Great Basin claims cases, where in the majority, Omer Stewart and Julian Steward encountered each other on opposing sides of the court. As Omer Stewart refers, in general, Julian Steward's anthropological interpretation of the Great Basin Shoshonean Indians was not accepted by the Commission in the title phase of the claims. Omer Stewart explains:

The review of the material supporting the notion of tribal territories and boundaries may be concluded by reference to the Indian Claims Commission decisions so far given in connection with the Claims cases filed for the Indians of the Great Basin. As of September, 1964, the only major group which had not been authorized to receive payment was the Southern Paiute. The Washo were judged to have exclusively used and occupied about three-fourths of the territory I had assigned to them as a result of my research, and the main boundaries to the east and to the west are accepted almost exactly as proposed. The fact that the Shoshone and Northern Paiute territories were accepted by the Indian Claims Commission in about the same size and form as anthropologists had mapped them long before the Indian Claims cases started is, in my estimation, vindication of the general process of mapping tribal areas whether they are primarily linguistic groups, or whether they are ethnic groups or cultural entities of other types. One may argue whether the Southern Paiute are distinct linguistically from the Ute to a great enough degree to justify filing a separate claim. The Indian Claims Commission, however, did accept the anthropological view, earlier expressed, that cultural differences and emotional separateness of the Ute from the Southern Paiute justified two different suits and two different claims. In general, it is my opinion that the attempt by the Department of Justice to avoid payment by emphasizing the diversity of tribal uses and the fact that different peoples were sometimes present in the territories claimed for their neighbors was not sufficient to justify failure to pay the Indians for their tribal lands as they had been defined by anthropologists during their research long before the beginning of the Indian Claims Commission cases.[199]

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[198] Ibid. p.148.

[199] Omer Stewart. 'Tribal Distributions and Boundaries in the Great Basin.' 1962, p. 203.

Perhaps the most telling statement of what culture ecology was all about does not come from Julian Steward, but, from Robert Murphy. Murphy, as well, was hired to prepare evidence and testify as the principal witness for the government in the Shoshone Nation et al. vs. The United States.[200] In this case, without going into any details, culture ecology was used for the defendant in a very similar manner to the Northern Paiute case. Murphy's close connection, therefore, especially in regards to the scope of this analysis, provides some valuable insight. Specifically, in an essay immediately following Steward's 1970 publication, called 'Basin Ethnography and Ecological Theory', Murphy discusses cultural ecology in general and Steward's contribution to it. Murphy concludes:

> It is clear that man's efforts against the environment depend upon his technology, and it is instructive to observe that in the study of ecology of our own society we are much less concerned with the impact of the environment on man than with man's impact on the environment. There is no doubt that nature is still very relevant to man, but there is also little question that nature is increasingly man-made and man-controlled. The Shoshone are important to our understanding of man and nature not because they illustrate a pervasive impact of environment on all cultures but because, by contrast, they tell us something about the nature of human progress. We are indeed a far remove from the Shoshone, and that is the point of cultural ecology. The leap from nature to culture some hundreds of thousands of years ago opened up an abyss that has grown and that is synonymous with what is loosely referred to as cultural evolution.[201]

In summary, Julian Steward provided very questionable anthropological evidence to the defendant that demonstrated that the aboriginal Northern Paiute were only organized at a family level of sociocultural integration and not as an aboriginal band that occupied a definable territory. In addition, Steward's anthropology was used to argue that at the time of the taking of U.S. dominion the Northern Paiute had evolved, with the introduction of the horse, into a new type social organization called predatory bands which were disassociated from land use and preyed upon

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200 Shoshone Nation. *Indian Claims Commission.* 1975.

201 Murphy. 'Basin Ethnography and Ecological Theory.' 1970, pp. 169-170.

white travelers for sustenance, which, it was claimed made them ineligible for aboriginal title. Steward accounts for the differences in the anthropological interpretations that arose at the Indian Claims Commission cases as being an issue of definition or approach to anthropology.

However, Steward's explanation totally ignores the political context and it masks the real issues. The plain fact is that Steward did take a highly conservative political stand. Steward testified in court and provided evidence that the Northern Paiute were not organized socially, politically, economically, and spiritually when the crucial issue was whether or not these people were an identifiable group of American Indians. In addition, in an unethical manner, Steward distorted the anthropological evidence in a way that best suited the particulars of the defense. Specifically, Steward produced two very questionable and unpublished works which supported, to the specific detail, the defendant's argument. Furthermore, Steward's works on culture change always clearly reflected an assimilationist position towards native peoples. The one constant in Steward's theory of culture change is colonial acculturation.

Therefore, it is totally incorrect for contemporary anthropology, and Marvin Harris in particular, to assume that cultural ecology theory is inherently progressive. In focusing on the objective material aspects of society like Harris suggests is just as limited and even more superficial than the functional perspective. Functionalism at least assumed certain universal social institutions like: kinship, territoriality, land tenure, political organization, religion, and social structure. The picture that Steward achieves is one that portrays the Shoshonean Indians strictly as being a poor, miserable, deprived, dismal, and starving people. Steward, restricts

consideration of the Shoshonean Indians to the terms of being completely controlled and manipulated by external forces. In essence, Steward objectifies them as people by removing their humanness and giving them no consciousness. Worse yet, in Steward's world, the Shoshonean Indians are not allowed to chose their own future and destiny. Consequently, Steward denies the Shoshonean Indians of the most fundamental and essential human right, that of self-determination.

In addition, the evolutionary or historical perspective that Harris recommends was used in the Indian Claims Commission to prove that the Shoshone Indians were less socially evolved than colonial Europeans. Underlying Steward's theoretical anthropology was an assumption that American Indian society was inferior and that they should progress towards assimilation into Euro-American society. Like social evolutionism, cultural ecology used an evolutionary scheme that served to justify colonial interests by disregarding the rights of aboriginal peoples.

Therefore, it is unquestionable that cultural ecology is inherently conservative because important features of Steward's theoretical anthropology have emerged exactly out of the situation of proving the Shoshonean Indians were not advanced enough to be recognized with Anglo-American law. The first time Steward introduced the concept of a family level of sociocultural integration was in the works that were prepared as evidence for the defendant at cases of the Indian Claims Commission. Later this concept of a family level of sociocultural integration framed the basis of his theory of cultural ecology and human evolution. Clearly, cultural ecology is a Eurocentric perspective that was used in a manner to

maintain a discriminatory and racist policy, which, to use Harris's words, is why anthropology is a 'dirty word' among indigenous peoples in North America today.

Conclusion

To conclude, these two drastic misinterpretations of social theory point out that anthropology as a discipline of knowledge does not have a very good understanding of its own theory. Part of the problem lies in the obscurity that has come with an appeal to an objective and scientific anthropology. As a consequence, the political agenda of cultural ecology was hidden which made it appear as if it was somehow removed from the political arena. Similarly, the political intentions of functional theory were concealed behind scientific objectivity in order to justify its legitimacy and usefulness to the colonial administration. As a result, functionalism as a theory was not progressive outside of its particular political context. However, the reliance on a scientific approach in order to achieve an objective or true picture is unsound. Science is just a method of inquiry. The results and the conclusions that science comes up will always be defined and interpreted by the researcher.

Therefore, it is dangerous for anthropology to assume that there can be an inherently progressive or conservative theory of human society. In fact, this assumption distracts anthropology from the real problem of the use of anthropological theory to justify unethical political agendas. Specifically, in maintaining this notion that theory can be removed from political context has created some fundamental hypocrisies in the discipline of anthropology itself. For example, the ability of anthropology for keen self understanding has been severely limited and even distorted. As a result, anthropology has left itself apathetic and vulnerable to misuse. To the contrary, social theory should be understood as something relative and as something shaped by the political context in which it is

used. Most importantly, anthropology must take ethical responsibility for the human reality that it creates.

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